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of the

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2004 Regular Session

Volume II

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at Frankfort, in the Year of Our Lord 2004,
and in the Two Hundred and Twelfth
Year of the Commonwealth

Begun on Tuesday, the Sixth Day of January, 2004, and Adjourned Sine Die on Tuesday, the Thirteenth Day of April, 2004

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FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2004 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Rhonda Carter, and Shelly Purvis prepared the *House Journal* for the 2004 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2005

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FRIDAY, FEBRUARY 27, 2004

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Larry Bowald, Cynthiana Presbyterian Church, Cynthiana, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Geveden, Haydon, Nelson, Nesler, Rader, and Rasche.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 26, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 624, by Representative Higdon: AN ACT relating to taxation of cigarettes and declaring an emergency.

HB 625, by Representative Weaver: AN ACT relating to commercial driver's licenses and declaring an emergency.

HB 626, by Representative Pullin: AN ACT relating to administrative regulations, and declaring an emergency.

HB 627, by Representative Pullin: AN ACT relating to the provision of broadband service.

HB 628, by Representative Vincent: AN ACT relating to recyclers.

HB 629, by Representative Jenkins: AN ACT relating to advertisements of bids by local air boards.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Local Government: **SB 95**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 587, 580, 600, 542**

Judiciary: **SB 14**

Report of Committees

The Committee on Tourism Development Energy reported **HB 577** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 577** is as follows:

HB 577, AN ACT relating to coalbed methane development and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 349 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby declares:

(a) The venting of coalbed methane and degasification of coal seams is approved by the Commonwealth for the purpose of ensuring the safe recovery of coal;

(b) The positive economic impact of coal mining to the Commonwealth is currently greater than that of coalbed methane production;

(c) Coalbed methane is not found in conventional gas reservoirs;

(d) Any development of coalbed methane should be undertaken in a way to protect and preserve the environment and protect and preserve the coal for future safe mining and the maximum recovery of coal;

(e) Commercial recovery and marketing of coalbed methane should be facilitated whenever appropriate to meet the energy needs of both the Commonwealth and the United States;

(f) The extraction of methane from mineable coal enhances mine safety, promotes environmental goals and objectives, and conserves an important energy resource; and

(g) The Energy Policy Act of 1992 was enacted, in part, to encourage coalbed methane development and the Commonwealth should enact legislation to carry out the purpose of that Act.

(2) Therefore, in order to encourage and ensure the fullest practical safe recovery of both coal and coalbed methane, consistent with the above declarations and findings, this chapter is established to:

(a) Authorize coalbed methane well permits;

(b) Regulate the design of coalbed methane wells and recovery techniques;

(c) Authorize coalbed methane well drilling units and pooling interests therein;

(d) Establish field rules; and

(e) Provide a process to enable coalbed methane well operators and coalbed methane owners to proceed with the orderly development and production of coalbed methane pending the judicial resolution of issues relating to coalbed methane ownership.

(3) Notwithstanding subsections (1) and (2) of this section, the General Assembly expressly finds that establishing an orderly process to permit and produce coalbed methane shall in no way be construed to create an inference or presumption as to the ownership of coalbed methane in any judicial or administrative proceeding, or be construed to or be used or interpreted to apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353, except for any wells that are to be permitted, converted to, or operated as coalbed methane wells.

(4) It is hereby declared to be the public policy of this Commonwealth and in the public interest to:

(a) Safeguard, preserve, and protect coal seams for safe mining; facilitate the expeditious, safe evacuation of coalbed methane from the coalbeds of this state; and maintain the ability and right of coal operators at all times to vent coalbed methane from mine areas for the safe recovery of coal;

(b) Foster, encourage, and promote the commercial development of the Commonwealth's coalbed methane by establishing procedures for issuing permits and forming drilling units for coalbed methane wells without adversely affecting the safety of mining or the mineability of coal seams;

(c) Safeguard, protect, and enforce the correlative rights of coalbed methane operators and coalbed methane owners in a pool of coalbed methane so that each operator and owner may obtain his or her just and equitable share of production from coalbed methane;

(d) Create a state permitting procedure and authority to provide for and facilitate coalbed methane development as encouraged by the Energy Policy Act of 1992; and

(e) Seek the deletion of the Commonwealth of Kentucky from the list of affected states by the Secretary of the United States Department of Interior as provided for in the Energy Policy Act of 1992.

SECTION 2. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;

(2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

(3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

(4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;

(5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;

(6) "Commissioner" means the commissioner of the Department of Natural Resources;

(7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;

(8) "Department" means the Department of Natural Resources;

(9) "Director" means the director of oil and gas conservation as established in KRS 353.530;

(10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(11) "DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035;

(12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;

(13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;

(14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;

(15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;

(16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);

(17) "Mine permittee" means the permittee as defined in KRS 350.010(21);

(18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;

(19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;

(20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;

(21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

(22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

(23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;

(24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(25) "Plat" means a map, drawing, or print showing the location of a well;

(26) "Review board" means the Coalbed Methane Well Review Board;

(27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;

(28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;

(29) "Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;

(30) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed

methane and are not drilling units as defined in subsection (10) of this section;

(31) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;

(32) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;

(33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;

(34) "Venting" means the act of releasing coalbed methane to the atmosphere;

(35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and

(36) "Workable coalbed" means:

(a) Any coalbed twenty-four (24) inches or more in thickness;

(b) Any coalbed actually being operated commercially;

(c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

SECTION 3. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department a plat prepared by a licensed, professional land surveyor and a licensed, professional engineer showing:

(a) The county in which the coalbed methane well drill site is located;

(b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;

(c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;

(d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;

(e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and

(f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.

(2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.

(3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.

(4) A copy of the required plat shall also be sent, by registered or certified mail, simultaneously with the filing of an application for a permit, to the surface owner of the drill site tract and surface owners of adjoining tracts.

(5) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.

(6) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any

executive officer, process agent, or chief engineer of the mine licensee or mine permittee may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.

(7) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.

(8) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.

(9) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:

(a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;

(b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and

(c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed. Any coal interest holder, within twenty (20) days of receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.

(2) If any coal interest holder, notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.

(3) If the record oil and gas lessor, lessee, or well operator notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.

(4) If no objections are filed within the twenty (20) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.

(5) Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to DSMRE. Within fifteen (15) days of receipt by DSMRE notification shall be sent to the department by DSMRE as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE, or the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE or within the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:

(a) Authorization has been denied by the mine permittee; and

(b) The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.

SECTION 5. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the abandonment of a coalbed methane well drilled through a workable coalbed, the well operator shall notify, by certified mail, return receipt requested, or by registered mail, all the coal interest holders of the workable coalbed and the department of the operator's intention to plug and abandon the well. The notice shall give the number of the well and its location, and fix the time at which the work of plugging and filling will be commenced. The time shall not be less than fifteen (15) days after the day on which the notice was received, or in due course should be received, by the department. The department shall prescribe the form of notice to be used. A representative of any coal interest holder, at his or her own expense and liability, and of the department may be present at the plugging and filling of the well. Regardless of whether representatives appear, the well operator may proceed, at the time fixed, to plug and fill the well. When the well is plugged and filled, an affidavit setting forth the time and manner in which the well was plugged shall be made in triplicate by two (2) persons experienced in plugging and filling wells who participated in the work. The affidavit shall be made on forms furnished by the department. One (1) copy of the affidavit shall be retained by the well operator, one (1) provided to each coal interest holder, and one (1) provided to the department.

(2) In addition to the notification required under subsection (1) of this section, prior to the abandonment of a coalbed methane well the operator shall submit a plugging plan which is subject to approval by the department. The proposed plugging plan shall be designed to allow coal mining to occur through the well after the well is plugged.

(3) If a coalbed methane well ceases to produce in paying quantities and no dewatering operations are being conducted for a period of fifteen (15) consecutive months, any coal interest holder or any record oil or gas lessor or lessee of any tract being penetrated by the coalbed methane well, may file a request for hearing pursuant to Section 12 of this Act, to determine whether the well has been abandoned and should be plugged in accordance with this section. However, nothing in this subsection shall require the plugging and abandonment of a coalbed methane well that is being temporarily shut in by the coalbed methane well operator. Simultaneously with the filing of a request for a hearing with the department, the person requesting the hearing shall send a copy of the request to the coalbed methane well operator.

(4) Any coal interest holder shall have the following rights with respect to a coalbed methane well to be plugged and abandoned:

(a) To convert the coalbed methane well to a vent hole or otherwise take the coalbed methane well. In this event the department, upon determination that the coal interest holder has placed the coalbed methane well under a mining permit, shall release the coalbed methane well operator's bond and the coalbed methane well operator shall be relieved of further responsibility for the coalbed methane well; and

(b) To file an objection concerning the proposed manner or method of plugging with the department, within fifteen (15) days after receipt of notice of intent to plug. The department shall consider any objection and may issue an order specifying the manner and method of plugging and reclamation consistent with this section.

(5) All coalbed methane wells shall be plugged and abandoned in accordance with this section. The department shall promulgate regulations specifying the manner and method of plugging vertical and horizontal coalbed methane wells and in so doing, or in entering any order for such plugging and abandonment, shall give consideration to the ability to mine any affected coal seam safely and the protection of any affected coal seam for future mining.

SECTION 6. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If a coalbed methane well is permitted and drilled within the boundaries of any coal mine for which a permit has been issued or an application for a mine permit or a mine permit modification or amendment has been filed but not issued pursuant to KRS Chapter 350, the mine licensee shall have the right to mine through that coalbed methane well and the associated drilling unit in accordance with the provisions of this subsection.

(a) At least one hundred twenty (120) days prior to mining through a coalbed methane well and associated drilling unit, the mine licensee shall notify the review board and operator of its intention to mine through the property. The notice shall be made on a form prescribed by the review board, and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit. After a hearing the review board shall promptly issue a written determination on whether the continued operation of the coalbed methane well will impede, interfere with, or present a possible safety hazard to the mine licensee's planned mining operations. If the review board determines that the coalbed methane well will impede, interfere with, or present a safety hazard to the planned mining operations, concurrently an order shall be issued to the operators, with a copy to the mine licensee, directing the temporary or permanent plugging of the well at the operator's cost and such other action as may be appropriate in the circumstances. Following the issuance of the order, the review board shall promptly issue a mine through certificate to the mine licensee, with a copy to the operator, authorizing the mine licensee to

mine-through the coalbed methane well and associated drilling unit.

(b) The mine licensee and all other coal interest holders having interests in the coalbed within the drilling unit shall have no duty or obligation to compensate or pay the operator or other interested coalbed methane parties for any causes of action, claims, or damages arising from the suspension or loss of coalbed methane production or the plugging and abandonment of a coalbed methane well and the removal or relocation of any associated facilities, infrastructure, and improvements due to mining through the coalbed methane well and associated drilling unit pursuant to this subsection.

(2) If a mine licensee files an application for a coal mine permit or seeks to modify or amend an existing coal mine permit so as to include a geographical area containing one (1) or more existing coalbed methane wells or any well sites for which drilling permits have been issued or are pending, the mine licensee shall have the right to mine through those coalbed methane wells or into or through a coalbed methane well and the associated drilling units and any well sites for which permits to drill have been issued or applications for permits to drill have been filed but not issued in accordance with the provisions of this subsection.

(a) At least one hundred eighty (180) days prior to mining into or through one (1) or more drilling units or permitted well sites operated by a common operator, the mine licensee shall notify the review board and the operator of its intention to mine into or through the property. The notice shall be made on a form prescribed by the review board and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit.

(b) Within thirty (30) days after receiving the mine licensee's notice pursuant to paragraph (a) of this subsection, the mine licensee and operator shall enter into a confidentiality agreement on a form prescribed by the review board and the operator shall provide, to the extent available, copies of all data and information necessary and appropriate to enable the mine licensee to determine the current value of each drilling unit, well site, and any associated assets described in the mine licensee's notice in accordance with the criteria set forth in paragraph (e) of this subsection. The information shall be in a form prescribed by the review board and shall include, among other things, data, reports, and information relating to current coalbed methane reserve calculations, well completions, historic production and sales results, capital and operating costs, all actual land, legal permitting, survey, title, and any other costs and expenses directly relating to the acquisition, permitting, development, and operation of each drilling unit and well site, and estimated well plugging and abandonment costs of any existing coalbed methane wells. In addition, the operator shall provide the review board and mine licensee with copies of all agreements and leases, payment division orders and any pooling agreements or pooling orders for each drilling unit and well site, together with a schedule setting forth the name, address, and working interest and net revenue percentages, royalties and overriding royalties, and all other interests and rights of all other interested coalbed methane parties. If the information is not timely filed or is incomplete, the mine licensee may seek an order from the review board directing the operator to comply with the provisions of this subsection.

(c) Within thirty (30) days after receiving the information described in paragraph (b) of this subsection, the mine licensee and operator shall meet and confer at a mutually agreed upon date, time, and place for the purpose of attempting to conclude a mutually acceptable agreement as to the compensation due to the operator for any damage, impairment, or loss to each drilling unit, well site, and any associated assets described in the information provided by the operator resulting from the mine licensee's planned mine-through operations. Any compensation agreement between the mine licensee and operator for each drilling unit or well site shall be approved and executed by all other interested coalbed methane parties. The mine licensee and operator shall jointly notify the review board that a compensation agreement has been entered into between the parties and request that the review board issue a mine-through certificate for each drilling unit and well site described in the notice. The notice shall include any terms and conditions set forth in the compensation agreement that the parties have agreed to incorporate in the applicable mine-through certificates. Upon receipt of the executed compensation agreement, the review board shall promptly issue the requested mine-through certificates to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the parties are unable to reach an agreement, within ten (10) days following the expiration of the thirty (30) day meet and confer period, either party may request a hearing before the review board for the purpose of determining the compensation due the operator and any terms and conditions to be imposed upon the mine licensee's proposed mining operations. Copies of the hearing request shall be sent to all other interested coalbed methane parties.

(d) Within fifteen (15) days of receiving the hearing request, the review board shall schedule a hearing to take place within sixty (60) days and shall notify the mine licensee, the operator and all other interested coalbed methane parties of the date, time, and location of the hearing. At its election, the review board may engage a qualified petroleum engineer for the purpose of conducting an independent evaluation of the compensation to be paid to the operator and all other interested coalbed methane parties in accordance with paragraph (e) of this subsection. The mine licensee and the operator shall each pay one-half (1/2) of the costs and expenses for the petroleum engineer retained by the review board.

(e) The review board shall determine the value of each drilling unit, well site, and all associated assets before and after the mine licensee's planned mine-through operations. In determining the amount of compensation due the operator and all other interested coalbed methane parties, the review board must consider all relevant evidence and information submitted and the review board shall base its decision solely upon the following criteria and procedures:

1. Except as otherwise expressly provided in this subsection, all coalbed methane reserve estimates and the valuation of reserves and other assets damaged, impaired, or lost due to the planned mining operations shall be consistent with standard oil and gas industry accounting, engineering, and reserve practices and shall be performed pursuant to the then-current applicable laws, regulations, policies, and guidelines for determining gas reserves for public reporting companies in the United States.

2. At the hearing, the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties, shall appear and submit evidence and testimony as to the value of the subject drilling units, well sites, and any associated assets before and after the mine licensee's planned mining operations. The review board shall only consider coalbed methane reserve estimates or valuation determinations made in conformity with subparagraph 1. of this paragraph by a professional petroleum engineer with experience in evaluating coalbed methane reserves and operations. All reserve estimates and any valuation analysis prepared by the mine licensee and operator for use in the review board's hearing shall be effective thirty (30) days prior to the date of the hearing. The reserve estimates and valuation analysis shall be exchanged between the mine licensee and operator and copies of the information shall be provided to the review board and all other interested coalbed methane parties no less than twenty-one (21) days prior to the hearing date. Any coalbed methane reserve estimates or valuation analysis prepared at the review board's request shall be set forth in a written report. Copies of the report prepared for the review board shall be provided to the mine licensee, the operator, and all other interested coalbed methane parties no less than ten (10) days prior to the review board's hearing date.

3. All estimates of remaining recoverable coalbed methane reserves immediately before and immediately after the planned mining operations shall consist of proved developed producing or proved developed nonproducing reserves as determined pursuant to this subsection. A drilling unit shall have proved developed producing reserves if the unit has an operating coalbed methane well, which is completed in one (1) or more target coal seams and is producing commercial quantities of coalbed methane. The drilling units total proved developed producing reserves before and after the planned mining operations shall be calculated based on the completed coal seams within the unit well. A drilling unit shall have proved developed nonproducing reserves if the unit has a coalbed methane well which is completed in one (1) or more target coal seams and is fully operational and all associated infrastructure such as power, gas gathering, and water management systems required to produce and sell coalbed methane in commercial quantities has been constructed, but the well is not producing coalbed methane in commercial quantities because it either is in the dewatering stage or is not operating due to factors beyond the operator's control. Whether a drilling unit contains proved developed producing reserves or proved developed nonproducing reserves shall be determined based on the status of the coalbed methane well and associated infrastructure sixty (60) days prior to the review board's hearing date.

4. The net present value of proved developed producing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twelve percent (12%). The net present value of proved developed nonproducing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twenty percent (20%). The valuation analysis shall also project the net present value of all revenues received, if any, by the operator during the period in which the planned mining operations are to be conducted.

5. In determining the compensation due the operator and all other interested coalbed methane parties for delayed or lost production, if the total projected production of the coalbed methane well is reduced so as not to yield a commercially reasonable return on investment to the operator, but the well is still able to produce coalbed methane in commercial quantities, the projected difference in the net present value of the recoverable reserves before and after mining shall be included as part of the compensation due the operator and all other interested coalbed methane parties.

6. In determining the value of the coalbed methane reserves impaired or lost due to the planned mining operations, except as expressly provided herein, no consideration shall be given to undeveloped coalbed methane resources in coal seams which have not been completed in the subject coalbed methane well or which are in coal seams below the total depth of the well bore. If, however, a coal seam in the same field is producing coalbed methane but the coal seam is not completed in the subject coalbed methane well, the operator may submit evidence to the review board for its consideration as to the potential net present value of the resources within the uncompleted seam, but in no event shall the net present value of those resources be discounted at less than thirty percent (30%).

7. *Except as otherwise provided herein, in determining the value of coalbed methane for purposes of this subsection, the gas price shall be the last published price in the gas market closest to the drilling unit sixty (60) days prior to the review board's hearing date. If the coalbed methane is sold pursuant to a gas sales agreement or marketing contract in which the gas price is determined based on a published price, subject to any contractual adjustment, in the gas market other than the market closest to the drilling unit, the gas price shall be determined based on the last published price in a gas market referred to in the gas sales agreement or marketing contract, subject to any contractual adjustment set forth therein, sixty (60) days prior to the review board's hearing date. If the coalbed methane is sold pursuant to an arms-length firm or fixed price gas sales agreement or marketing contract, the actual sales price received by operator for gas sold sixty (60) days prior to the review board's hearing date shall be used as the gas price in the coalbed methane valuation.*

8. *All capital, operating, and production costs used in the net present value determinations made pursuant to this subsection shall be based on the operator's then current reasonable and verifiable actual costs and expenses. Copies of all relevant and available cost information shall be provided by the operator to the review board and mine licensee as provided in paragraph (b) of this subsection. If actual cost information is not otherwise available, all calculations shall be made using reasonable and customary costs for comparable coalbed methane operations in the Commonwealth and in the surrounding states.*

9. *If the planned mining operations will mine through a coalbed methane well or require the removal, relocation, or suspension of operation of other facilities, infrastructure, or improvements in a drilling unit, the operator and any other interested coalbed methane parties shall be reimbursed for all reasonable actual and direct costs, damages, and expenses to be incurred due to these mining operations; provided, however, that in no event shall any replacement costs and expenses exceed the operator's or any other interested coalbed methane parties' actual costs and expenses for the affected well, facilities, infrastructure, and improvements, as the case may be. The operator and any other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs of the subject drilling unit, coalbed methane well and the associated facilities, infrastructure, and improvements. Any amounts due the operator and any other interested coalbed methane parties shall be reduced by the projected then-current market value of such equipment, facilities, and improvements to the extent that it can be salvaged and sold or used in other operations.*

10. *If, prior to drilling a coalbed methane well, the mine licensee submits a plan to mine into or through any part of the associated drilling unit or well site for which a drilling permit has been issued or is pending, the operator shall not proceed with drilling a coalbed methane well pending a final decision by the review board with respect to the mine licensee's request for a mine-through certificate. When a mine-through certificate is issued to the mine licensee, the operator and all other interested coalbed methane parties shall be reimbursed for all reasonable costs and verifiable actual land, legal, permitting, surveying, and technical costs and expenses incurred to acquire or lease and maintain the property and obtain any permits, approvals, and other agreements required to drill the coalbed methane well. The operator and all other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs to acquire or lease the subject property or permit the coalbed methane well.*

(f) At a hearing, the review board shall take testimony and evidence from the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties consistent with the provisions in this subsection. Within fifteen (15) days following the hearing, the review board shall issue a written decision to the mine licensee and operator determining the compensation due the operator and each of the other interested coalbed methane parties in the amount of the difference between the value of each drilling unit, well site, and any associated assets before and after the mine licensee's planned mining operations. If the review board determines that the mine licensee's proposed mining operations will result in a loss or taking of all of either the coalbed methane reserves in the coal seam to be mined and all coalbed methane reserves in completed coal seams in the coalbed methane well below the mined coal seam as provided in paragraph (e)5. of this subsection or the entire drilling unit, the operator and other interested coalbed methane parties shall be awarded the full value of the property and assets prior to the proposed mining operations as determined by the review board. The review board's decision shall list the compensation amounts to be paid to the operator and each of the other interested coalbed methane parties for each drilling unit, well site, and any associated assets. The decision shall also set forth any duties or obligations to be performed by the parties, such as the temporary or permanent plugging of any well or the relocation or removal of any surface facilities, to enable the mine licensee to proceed immediately with the planned mining operations.

(g) Within fifteen (15) days of receiving the review board's decision, the mine licensee shall notify the review board and the operator and all other interested coalbed methane parties of its decision to:

1. *Accept the review board's decision with respect to one (1) or more of the drilling units, well sites, and associated assets and deposit the compensation awarded to the operator and each of the other interested*

coalbed methane parties for the property;

2. Appeal all or part of the review board's decision as provided in paragraph (j) of this subsection; or

3. Withdraw notice of intent to mine into any of the subject coalbed methane property and assets. If the mine licensee elects to withdraw notice of intent to mine into or through all of the drilling units, well sites, and any associated assets which were the subject of the review board hearing, upon receiving a statement of costs from the operator, the mine licensee shall promptly reimburse the operator for all reasonable out-of-pocket engineering and legal costs and expenses incurred to prepare for and participate in the review board hearing and shall have no further obligations to the operator or any of the other interested coalbed methane parties.

(h) Within fifteen (15) days of receiving the review board's decision, the operator, on behalf of itself and other interested coalbed methane parties, shall notify the review board and the mine licensee whether it will accept the amounts awarded by the review board or file an appeal with the Circuit Court in the county where the drilling unit or well site is located challenging the review board's valuation of any of the property or assets.

(i) If no appeal of the review board's decision is filed by the parties, upon receipt of the compensation due the operator and all other interested coalbed methane parties for each drilling unit and well site selected by the mine licensee for which a mine-through certificate will be issued, the review board shall promptly deliver the awarded compensation to the operator and all other interested coalbed methane parties for the drilling unit and well site and concurrently issue the appropriate mine-through certificate to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in coal seams to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in subparagraph 5. of paragraph (e)5. of this subsection or the total value of the entire drilling unit and associated assets, upon payment of the compensation, the operator and other interested coalbed methane parties shall simultaneously, if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interests in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances.

(j) If either party notifies the review board of a decision to appeal the review board's valuation of any of the subject coalbed methane properties and assets to the Circuit Court, the mine licensee shall deposit with the review board the compensation due the operator and each of the other interested coalbed methane parties for each drilling unit, well site and any associated assets selected by the mine licensee for which a mine-through certificate will be issued. Upon receipt of the funds from the mine licensee, the review board shall promptly deliver to the operator and the other interested coalbed methane parties one hundred percent (100%) of the awarded compensation for any drilling unit, well site and any associated assets not listed in any notice of appeal and seventy-five percent (75%) of the awarded compensation to the operator and other interested coalbed methane parties for any drilling unit, well site, and any associated assets for which an appeal is to be filed. Concurrently with delivering the awarded compensation to the operator as provided herein, the review board shall issue to the mine licensee, with copies to the operator and all other interested coalbed methane parties, a mine-through certificate for each drilling unit and well site for which compensation has been received. If the review board's decision with respect to any drilling unit is not appealed and the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below that coal seam as provided in paragraph (e)5. of this subsection or the total value of each drilling unit, well site, and any associated assets, upon payment of the compensation, the operator and other interested coalbed methane parties shall simultaneously if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interests in that property and assets, as the case may be, within the drilling unit or well site on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances to carry out its decision. All funds deposited with the review board shall be placed in an interest-bearing account pending a final resolution of any appeals.

(k) Within thirty (30) days following the issuance of the review board's decision, the mine licensee or the operator, on behalf of itself and any other interested coalbed methane parties, may file a petition in the Circuit Court of the county in which the drilling unit or well site is located or in the Franklin County Circuit Court disputing the review board's valuation of all or any part of any coalbed methane properties or assets pursuant to this subsection. The parties filing the petition shall name as parties to the action the following: the review board, the mine licensee, all other coal interest holders, the operator, and all other interested coalbed methane parties. Promptly upon receiving notice of the petition, the review board shall deliver any remaining funds deposited by the mine licensee as provided in paragraph (j) of this subsection, together with all interest accrued thereon, to the clerk of the Circuit Court for the county in which the petition is filed and these funds shall be deposited in an interest bearing account pending a decision on the petition. The decision of the Circuit Court shall be made

in accordance with the provisions of Section 18 of this Act. If the Circuit Court determines the operator and other interested coalbed methane parties are entitled to greater compensation than the amount awarded by the review board, the mine licensee shall pay the difference to the clerk of the Circuit Court within fifteen (15) days of the court's decision. Upon receipt of the additional funds awarded by the Circuit Court, the clerk shall promptly deliver to the operator and any other interested coalbed methane parties these funds together with all interest accrued thereon. If the Circuit Court determines that the operator is entitled to less compensation than the amount awarded by the review board, the amount of the reduction shall be refunded to the mine licensee together with any interest that accrued thereon. If the escrowed funds are not sufficient to fully reimburse the mine licensee, the operator and all other interested coalbed methane parties having an interest in the subject coalbed methane properties and assets shall promptly pay the mine licensee for the difference between the escrowed funds and the total amount to be reimbursed pursuant to the Circuit Court's order. If the Circuit Court determines that the operator and other interested coalbed methane parties are to receive either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in paragraph (e)5. of this subsection or the total value of the entire drilling unit, well site, and any associated assets, which values may be increased or decreased by the Circuit Court, upon receipt of the awarded compensation, the operator and other interested coalbed methane parties shall simultaneously if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interest in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board.

(l) Subject to obtaining a decision by the Circuit Court with respect to any appeals initiated pursuant to paragraph (k) of this subsection, the operator and all of the other interested coalbed methane parties' acceptance of the compensation awarded by the review board and of the performance of any duties and obligations by the mine licensee as ordered by the review board shall constitute full and complete consideration to the operator and all of the other interested coalbed methane parties for any and all causes of action, claims, damages, or losses to each drilling unit or any portion thereof, well site, or any associated assets caused by the mine licensee, or any other coal interest holder's subsequent mining operations. The mine licensee shall be liable for any and all injuries, deaths, or damages proximately caused by the mine licensee on, in, or with respect to that property.

(3) If, after the mine licensee files a notice of intention to mine into or through any coalbed methane properties or assets pursuant to subsection (1) or (2) of this section, the mine licensee's coal mining permit or any pending amendment to an existing permit issued pursuant to KRS Chapter 350 is withdrawn, canceled, delayed, or modified so as to exclude all or any part of the geographic area covering any drilling unit or well site described in the mine licensee's notice, the mine licensee shall promptly advise the review board and operator that it is amending its request for a mine-through certificate to exclude any property that is no longer subject to a coal mine permit or a pending coal mine permit application.

SECTION 7. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall apply to all lands located in the Commonwealth however owned including lands owned or administered by any government or any agency or political subdivision thereof, over which the Commonwealth has jurisdiction under its police power.

(2) The waste of coalbed methane is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil, gas, and coalbed methane industry, giving consideration to coal mining operations and the safe recovery of coal and includes:

(a) The locating, drilling, equipping, operating, or producing of any coalbed methane well or wells drilled, deepened, or reopened in a manner that causes or tends to cause a reduction in the quantity of coalbed methane ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or administrative regulation promulgated or issued under this chapter;

(b) Permitting the migration of coalbed methane from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable coalbed methane;

(c) The drowning with water of any stratum or part thereof capable of producing coalbed methane in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;

(d) The unlawful damage to underground, fresh, or mineral water supply, coalbeds, or other mineral deposits in the operations for the discovery, development, production, or handling of coalbed methane;

(e) The unnecessary or excessive loss of coalbed methane by spillage or venting or destruction of coalbed methane or its constituents; and

(f) The drilling of more wells than are reasonably required to recover efficiently the maximum amount of coalbed methane from a pool.

(3) For purposes of this chapter, waste does not include coalbed methane vented or released from any mine area, the degasification of a coal seam for the safe recovery of coal, the plugging of coalbed methane wells for the safe recovery of coal, or the conversion of coalbed methane wells to vent holes for the safe recovery of coal.

(4) The sale or use of coalbed methane from any coalbed methane well unless a permit has been issued as required by Section 8 of this Act, or in violation of the spacing provisions of Section 15 of this Act, shall be prohibited.

(5) No person shall conduct coalbed methane operations unless that person has first obtained the necessary permits, including surface discharge and underground injection control permits, as appropriate for the particular operation to be conducted. The department shall notify state and federal agencies with jurisdiction over the protection of surface waters and groundwater when permit applications are filed and shall, to the extent possible, coordinate permit review.

SECTION 8. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.

(2) Every permit application filed under this section shall be verified and shall contain the following:

(a) A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;

(b) The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;

(c) The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;

(d) The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;

(e) The coalbed methane well name or such other identification as the department may require;

(f) The approximate depth to which the coalbed methane well is to be drilled, deepened, or converted, the coal seams including the depth and thickness of each seam that will be completed for production, and any other coal seams which will be penetrated by the coalbed methane well;

(g) A description of any means to be used to stimulate any of the workable coalbeds penetrated by the coalbed methane well;

(h) If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

(i) If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(j) Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;

(k) If the proposed operations will include horizontal drilling of a coalbed methane well, a description of the operations, including both the vertical and horizontal alignment and extent of the coalbed methane well from the surface to total depth; and

(l) Other information as the department may require consistent with this chapter.

(3) Each application for a coalbed methane well permit shall be accompanied by the following:

(a) A permit application fee of three hundred dollars ($300);

(b) A bond in an amount prescribed in Section 24 of this Act;

(c) A certificate that the applicant's notice requirements of Section 3 of this Act have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing; and

(d) If the proposed coalbed methane well will be located within one-half (1/2) of a mile, measuring horizontally, of a water supply well being used for residential or domestic purposes, the applicant will submit the groundwater protection plan required under KRS 224.70-110 and applicable administrative regulations promulgated pursuant thereto for review by the department, or demonstrate to the department that a plan is not required.

(4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:

(a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before the DSMRE and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before DSMRE;

(b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before DSMRE for which no bond release has been obtained; or

(c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by DSMRE for which a partial bond release has been obtained.

If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through rights set forth in subsection (1) of Section 6 of this Act.

(5) If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from DSMRE and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:

(a) The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;

(b) The mine licensee has refused to provide written authorization to disturb the permitted area;

(c) The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and

(d) The applicant has agreed to pay the reasonable and actual costs of the permit revision required by DSMRE to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars ($5,000).

(6) Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to Section 12 of this Act and, if required, to allow present or future mining with planned subsidence under KRS Chapter 350. However, this subsection and any subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. The mine licensee, its successors or assigns, shall be liable for any and all damages to persons or to improved or tangible property proximately caused by the mine licensee.

(7) If the mine licensee is mining in a coal seam that is not being produced by the coalbed methane well operator and has not exercised his or her mine-through rights, as set forth in subsection (1) or (2) of Section 6 of this Act, in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, which shall be accompanied by the following:

(a) A copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and

(b) A statement that the applicant has met and conferred with, or offered to met and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.

The well operator may, within twenty (20) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the twenty (20) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.

(8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to Section 29 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) When two (2) or more separately owned tracts, or portions thereof, are embraced within a drilling unit, or when there are separately owned interests in all or part of any such drilling unit, the operators or owners of coalbed methane owning the interests may pool their interests for the development and operation of the drilling unit by voluntary agreement. These agreements may be based on the exercise of pooling rights or rights to establish units which are granted in any gas or oil lease, coal lease, coalbed methane lease, or similar instrument.

(2) No voluntary pooling agreement between or among coalbed methane operators or owners shall be held to violate the statutory or common law of the Commonwealth which prohibits monopolies or acts, arrangements, contracts, combinations, or conspiracies in restraint of trade or commerce.

SECTION 10. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If any coal interest holder has objected to the proposed stimulation pursuant to subsection (1) of Section 4 of this Act, no permit shall be issued to stimulate a coalbed methane well unless the applicant has obtained and filed with the department an agreement between the coal interest holders of any workable coalbed within five hundred (500) horizontal feet of the proposed coalbed methane well to be stimulated and within the five hundred (500) foot horizontal radius and feet fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated.

(2) The requirement for an agreement to stimulate in this section shall not be construed to impair, abridge, or affect any contractual rights or obligations arising out of a contract, lease, deed, or similar agreement which provides for the development of coalbed methane and stimulation of workable coalbeds between the applicant and the coal interest holder. The existence of any such contract, lease, deed, or similar document shall constitute a waiver of the requirement to file an agreement to stimulate with the department.

(3) An agreement to stimulate shall provide:

(a) That the coal interest holder has been provided with a copy of the permit application to drill a coalbed methane well and a copy of all plats and documents which may accompany the application; and

(b) That the coal interest holder agrees to the stimulation of the workable coalbed as described in the application.

(4) Subject to subsection (5) of Section 4 of this Act, in the absence of the applicant submitting the agreement to stimulate as described herein, the applicant may submit a request for a hearing before the review board accompanied by an affidavit, or verified statement, which shall include the following:

(a) A statement that the coal interest holder has refused to sign a written agreement to stimulate the workable coalbed;

(b) A statement detailing the efforts undertaken to obtain the signed agreement to stimulate; and

(c) A statement that the proposed method of stimulation does not involve the use of explosives and will not have a significant adverse affect on the mineability of the workable coalbed, or impair mine safety.

(5) The failure to obtain an agreement to stimulate shall in no way create an inference or presumption that the method of stimulation proposed by the applicant will harm the workable coalbed.

(6) Upon receipt of a request for a hearing and an affidavit, or verified statement, as set forth in this section, the department shall forward the application to the review board to consider the proposed stimulation, or if other objections or requests are filed requiring a hearing before the review board, the request may be included for consideration by the review board along with other matters related to the permit application.

(7) Any well operator that stimulates a workable coalbed without an agreement to stimulate from the coal interest holder shall be liable in tort without proof of negligence for any damages proximately caused by the stimulation to the workable coalbed, or any other workable coalbed within five hundred (500) horizontal feet of the coalbed methane well stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed stimulated and for damages to any mining equipment proximately caused by the stimulation. The well operator shall be liable for injury, death, or damage to property proximately caused by the stimulation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.

(2) The review board shall consist of the commissioner of the Department of Natural Resources or his or her designee within the department, the commissioner of the Department of Mines and Minerals, and the director of the Division of Oil and Gas within the Department of Mines and Minerals, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years.

(3) The review board shall be, for administrative purposes only, attached to the Division of Oil and Gas within the Department of Mines and Minerals.

SECTION 12. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The review board shall rule upon:

- *(a) Objections to proposed coalbed methane wells, their locations, the proposed stimulation, or the proposed completion pursuant to Section 4 of this Act;*
- *(b) Appeals of permit denials arising under subsection (5) of Section 4 of this Act;*
- *(c) Requests for a hearing arising under subsection (3) of Section 5 of this Act ;*
- *(d) Requests for pooling orders pursuant to subsection (1) of Section 16 of this Act;*
- *(e) Requests for the establishment or modification of drilling units for coalbed methane wells;*
- *(f) Requests for the creation or modification of field rules relating to the drilling, completion, and production of coalbed methane wells; and*
- *(g) Requests for the unitization of coalbed methane wells, pools, or fields.*

(2) The review board shall meet, hold conferences, and hold hearings at a time and place as designated by the chairman. The chairman may call a meeting of the review board at any time. A majority of the members of the review board shall constitute a quorum for the transaction of any business to come before the review board. All determinations of the review board shall be by majority vote of the quorum present. The commissioner, or his or her designee within the department, shall be the chairman of the review board. The review board shall hold a regular monthly meeting. Notice of all meetings of the review board shall be given to each member by the chairman at least ten (10) days in advance of each meeting, unless otherwise agreed by the members.

(3) The review board shall execute, carry out, administer, and enforce the provisions of this chapter in the manner provided in this section.

(4) The review board may:

- *(a) Take evidence and issue orders concerning the permitting of a coalbed methane well, its location, stimulation, and the completion pursuant to Section 3 of this Act; issue pooling orders in accordance with subsection (1) of Section 16 of this Act; issue orders regarding the establishment or modification of drilling units for coalbed methane wells, field rules relating to the drilling, completion, and production of coalbed methane wells; and requests for the unitization of coalbed methane wells, pools, and fields;*
- *(b) Promulgate and enforce administrative regulations and rules necessary to govern the practice and procedure before the review board;*
- *(c) Make relevant investigations of records and facilities as it deems proper in connection with ruling on any objections to a proposed coalbed methane well, its location, the proposed stimulation, or the proposed completion; and*
- *(d) Issue subpoenas for the attendance and sworn testimony from witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, electronic data, and other pertinent documents or data in the review board's own name or at the request of any party.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department shall notify the review board of the objection, request, or appeal as set forth in subsection (1) of Section 12 of this Act and schedule a time and place for a hearing.

(2) Notice of the hearing shall be given not less than fifteen (15) days in advance of the hearing to the applicant, surface owners, and all other parties as required under Section 4, 14, or 17 of this Act, as applicable. The hearing of the review board shall be held within thirty (30) days after the filing of the objection, request or appeals or as soon thereafter as the review board can be assembled.

(3) All proceedings before the review board shall be conducted in accordance with KRS Chapter 13B.

(4) With respect to any objection filed pursuant to Section 3 of this Act concerning the proposed coalbed methane well, or its location, stimulation or completion, appeals arising under subsection (5) of Section 4 of this Act, or requests for a hearing arising under this chapter, the review board shall make a determination as to whether a permit shall be issued by the department and any conditions to be included within the permit, which determination and order shall be consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceeding:

(a) The declaration of public policy and legislative findings as set forth in this chapter;

(b) Whether the proposed coalbed methane well can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal;

(c) The feasibility of moving the proposed drilling location to another location;

(d) Whether any stimulation of the workable coalbed will have a significant adverse affect on the mineability of that workable coalbed or any other workable coalbeds within five hundred (500) of the proposed coalbed methane well to be stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated or impair mine safety;

(e) Whether the drilling location is above or in close proximity to any mine opening, shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, any abandoned, operating coal mine or any coal mine already surveyed and platted but not yet being operated;

(f) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing or planned pillar of coal, taking into consideration the surface topography;

(g) The extent to which the proposed drilling location interferes with the safe recovery of coal or coalbed methane;

(h) The extent to which the proposed drilling location will unreasonably interfere with present or future coal mining operations;

(i) The technology and methods proposed for the safe and efficient recovery of coal and coalbed methane;

(j) The practicality of locating the coalbed methane well out of a uniform pattern with other wells;

(k) The surface topography and use; and

(l) Any other factor the review board determines would be considered consistent with KRS Chapters 350 and 352 and this chapter.

(5) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon the ability to mine any affected workable coalbed safely and the protection of any workable coalbed for safe future mining, shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (4) of this section, and based thereon shall issue and file with the department a written order directing it to:

(a) Refuse to issue a coalbed methane well permit;

(b) Issue a permit for the proposed coalbed methane well location and any conditions to be included within the permit;

(c) Issue a coalbed methane well permit and any conditions to be included within the permit for an alternate drilling location different from that requested by the applicant; or

(d) Issue a permit authorizing the applicant to stimulate the coalbed methane well in the absence of an agreement of the affected coal interest holders as described in subsection (1) of Section 9 of this Act, as proposed or as modified by the order of the review board.

(6) With respect to any request for a hearing pursuant to Section 5 of this Act by a coalbed interest holder, or any record oil or gas lessor or lessee of any tract being penetrated by a coalbed methane well, to determine whether the well has been abandoned and should be plugged in accordance with this chapter, the review board shall make a determination as to whether the coalbed methane well should be plugged, which determination and order shall be consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceeding:

(a) Whether the coalbed methane well has ceased to produce in paying quantities, and no dewatering operations are being conducted, for a period of fifteen (15) consecutive months;

(b) Whether the coalbed methane well is being temporarily shut in by the coalbed methane well operator; and

(c) Any other factor the review board determines should be considered consistent with this section.

(7) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether the coalbed methane well has been abandoned and should be plugged in accordance with this chapter; shall enter a written order containing findings of fact and conclusions which address any relevant consideration in subsection (6) of this section based thereon; and shall issue and file with the department a written order directing the department to:

(a) Require the coalbed methane well operator to plug and abandon the well;

(b) Allow the coalbed methane well operator to continue to operate and produce the well; or

(c) Allow the coalbed methane well operator to continue to shut in the coalbed methane well on a temporary basis.

(8) Upon receipt of the review board order, the department shall promptly undertake the action directed by the review board, provided that all other provisions of this chapter have been complied with.

SECTION 14. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) In order to prevent the waste of coalbed methane or to protect the correlative rights of the owners of coalbed methane, the review board on its own motion or upon application of an operator of a coalbed methane well or owner of coalbed methane shall have the power to establish or modify drilling units, establish or modify field rules, or unitize coalbed methane wells, pools or fields. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool or field. Any operator of a coalbed methane well or owner of coalbed methane may apply to the review board for the creation or modification of drilling units, the establishment or modification of field rules for a pool or field, and the unitization of any coalbed methane wells, pools, or fields.

(2) With respect to any request for the creation or modification of drilling units, establishment or modification of field rules for the pool or field, and the unitization of any coalbed methane wells, pools, or fields, the review board shall grant or deny the request and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceedings:

(a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;

(b) The plan of development for the coal, that drilling units conform to mine development plans, and the need for proper ventilation of any mines or degasification of any affected coal seams;

(c) The nature and character of any coal seam or seams which will be affected by the coalbed methane well or wells;

(d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;

(e) Evidence relevant to the proper boundary of the drilling unit;

(f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;

(g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;

(h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane well within the drilling unit; and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the drilling unit for the benefit of the majority of the coalbed methane owners;

(i) If more than one person is interested in operating a coalbed methane well within the drilling unit, the estimated cost of submitting by each such person for drilling, completing, operating and marketing the coalbed methane from any proposed coalbed methane well or wells;

(j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;

(k) The correlative rights of the operators and owners of coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and

(l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352, and this chapter.

(3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to establish or modify a drilling unit, establish or modify field rules or establish or modify the unitization of coalbed methane wells, pools or fields. The review board shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order:

(a) Establishing or modifying a drilling unit, field rules or unitizing coalbed methane wells, pools or fields;

(b) Refusing to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields; or

(c) Attaching certain conditions to the establishment or modification of a drilling unit, field rules, or unitization of coalbed methane wells, pools or fields.

(4) In establishing or modifying a drilling unit for coalbed methane wells, and in order to accommodate the unique characteristics of coalbed methane development, the review board may require that drilling units conform to the mine development plan, if any. If requested by the coal interest holder, well locations and spacing shall correspond with mine operations, including the drilling of multiple coalbed methane wells on the same surface location of each drilling unit.

(5) If an order to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields will allow a coalbed methane well to be drilled into or through a workable coalbed, any coal interest holder and any record oil and gas lessor and lessee within the area to be covered by the drilling unit, field rules or unitization of coalbed methane wells, pools or fields may object to the establishment or modification of the drilling unit, field rules or unitization of coalbed methane wells, pools or fields.

(6) The review board may continue a hearing to allow for further investigation and the gathering and taking of additional data and evidence. If at any time during a hearing there is not sufficient evidence for the review board to determine field boundaries, or drilling unit size or shape, the review board may enter a temporary order establishing provisional drilling units, and field boundaries for the orderly development of the pool or field, pending receipt of the information necessary to determine the ultimate pool or field boundaries, and spacing of wells for the pool or field. Upon additional findings of fact, the boundaries of a pool or field and drilling units for the pool or field may be modified by the review board.

(7) Unless otherwise provided for by the review board, after an application for a hearing to establish or modify drilling units or pool boundaries has been filed, no additional wells shall be permitted in the pool or field until the review board's order establishing or modifying the pool or field or unit has been entered.

(8) After the review board issues a field or pool spacing order which creates drilling units or a pattern of drilling units for a pool or field, should an operator or owner of coalbed methane apply for a permit or otherwise indicate a desire to drill a coalbed methane well outside of such drilling units or pattern of drilling units and thereby potentially extend the pool or field, the review board may, on its own motion or the motion of any interested person, require that the coalbed methane well be located and drilled in compliance with the provisions of the order affecting the pool or field.

SECTION 15. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 14 of this Act, or pursuant to voluntary pooling, no permit shall be issued for a coalbed methane well unless the proposed location of a vertical well shall be at least seven hundred fifty (750) feet horizontally from the nearest mineral boundary upon which the well is to be drilled and the proposed location shall be at least one thousand five hundred (1,500) feet horizontally from the nearest coalbed methane well, unless the department orders that a different spacing distance shall apply. Spacing distances for coalbed methane horizontal wells shall be separately established by the department pursuant to this subchapter.

SECTION 16. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Whenever an applicant proposes to drill, deepen, convert, or reopen a well for purposes of production of coalbed methane and the ownership of the right to produce coalbed methane is in dispute, the department shall refer the application to the review board for its consideration and the issuance of appropriate pooling orders, if any, in accordance with Section 17 of this Act. Upon the issuance of a pooling order by the review board, and if all other provisions of this chapter are complied with the department shall issue a permit to drill, deepen, convert, or reopen the well and require the development and operation of all pooled tracts and interests as a single leasehold estate in accordance with the pooling order.

(2) No pooling as permitted by this section shall be ordered except:

(a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in Section 15 of this Act; or

(b) A request for pooling has been made pursuant to this section or Section 17 of this Act.

(3) No pooling, as permitted by this section, shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or converted or reopened:

(a) Unless the pooling was requested prior to the commencement of the drilling, deepening, converting, or reopening of the coalbed methane well; and

(b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, converting, or reopening of the coalbed methane well, is accompanied by a bond or other security satisfactory to and in an amount set by the review board for the payment of such owner's share of the cost of drilling, deepening, converting, or reopening the well.

(4) Production from any well which is ordered pooled pursuant to this section shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

SECTION 17. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The person requesting a pooling order shall provide to the department a list of all persons reasonably known to own an oil or gas interest and all coal interest holders, in any tract upon which the coalbed methane well will be located from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest and all coal interest holders in any tract upon which the well will be located and any tract or portion thereof proposed to be pooled in any drilling unit, from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated, after a hearing has been held. After filing an application for a pooling order under subsection (1) of Section 16 of this Act, where unknown or nonlocatable owners exist, or at the request of the permit applicant or person requesting a pooling order, the permit applicant shall publish, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:

(a) State that an application for a pooling order is being filed with the review board;

(b) Describe any tract, or portion thereof, proposed to be pooled;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the permit applicant at the published address and provide a copy of the notification to the review board within twenty (20) days of the date of the publication.

(2) The review board shall grant or deny the request for a pooling order and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceeding:

(a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;

(b) The plan of development of the coal and the need for proper ventilation of any mines or degasification of any affected coal seams;

(c) The nature and character of any coal seam or seams which will be affected by the proposed coalbed methane well or wells;

(d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;

(e) Evidence relevant to the proper boundary of the drilling unit;

(f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;

(g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well or wells within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;

(h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane wells within the unit, and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the unit for the benefit of the majority of the coalbed methane owners;

(i) If more than one person is interested in operating a coalbed methane well within the unit, the estimated cost submitted by each such person for drilling, completing, operating, and marketing the coalbed methane from any proposed coalbed methane well or wells;

(j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;

(k) The correlative rights of the operators and owners of the coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and

(l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352 and this chapter.

(3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to grant a pooling order, and shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order granting the pooling order with any applicable conditions or denying the pooling order.

(4) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of coalbed methane on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of working interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, converting or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared, by all owners of working interests in proportion to the net mineral acres in the pooled

tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable and actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

(5) A pooling order shall establish a procedure for the owner who claims a working interest and who does not decide to become a participating working interest owner to elect to either:

(a) Surrender, by means of sale or lease, the interest to a participating working interest owner on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be one-eighth (1/8) of the production attributable to the well; or

(b) Share in the operation of the well as a nonparticipating working interest owner on a carried basis after the proceeds allocable to his or her share equal to two hundred percent (200%) of the share of the costs allocable to his or her interest.

(6) A coalbed methane owner or claimant whose identity and location remain unknown at the conclusion of the hearing concerning the entry of a pooling order for which public notice was given and whose interest is pooled pursuant to subsection (1) of Section 16 of this Act shall be deemed to have elected to lease the interest to the coalbed methane operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (5) of this section.

(7) Except as provided in this section, a coalbed methane owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the coalbed methane interest to the coalbed methane well operator in the manner established in subsection (6) of this section.

(8) A person whose interest is subject to a coalbed methane lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of this section.

(9) A certified copy of any pooling order entered under this section shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

(10) Each pooling order for a coalbed methane well issued pursuant to subsection (1) of Section 16 of this Act shall provide for the establishment of an interest-bearing escrow account to be maintained by the department. The escrow account shall receive deposits and hold payment for costs and proceeds attributable to the conflicting interests as follows:

(a) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account the owner's proportionate share of the costs allocable to the ownership interest claimed by each participating working interest owner as set forth in the pooling order; and

(b) The unit operator shall collect all proceeds from the sale or use of coalbed methane and deposit in the escrow account all proceeds attributable to the conflicting interests of lessors, lessees, or royalty owners and all proceeds in excess of the recovery of all capital costs and expenses and all ongoing operational expenses including reasonable overhead costs and operating fees attributable to conflicting working interests.

(11) The department shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within thirty (30) days of receipt by the department of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane. Upon the department's final determination:

(a) Each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(b) Each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner as determined by the election of the person under the applicable pooling order;

(c) Each person leasing or deemed to have leased its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds as set out in the applicable pooling order attributable to the conflicting interests of the lessees;

(d) The unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner, but only to the extent that the costs and expenses described in subsection (10)(b) of this section have not been recouped from production proceeds;

(e) Each participating working interest owner who is determined not to hold an ownership interest shall receive a refund of all amounts placed in escrow pursuant to subsection (10)(a) of this section plus interest earned thereon; and

(f) All amounts remaining in escrow, after distribution of amounts described in paragraphs (a), (b), (c), (d), and (e) of this subsection, shall be distributed to the legally entitled participating working interest owners in proportion to their interests.

SECTION 18. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by any order issued by the review board under this chapter shall have the right to bring a civil action for review of the order by filing a complaint in the Circuit Court of the county in which the premises or any

portion thereof is located as established by the order, or in Franklin Circuit Court.

(2) The civil action shall be brought within thirty (30) days after the order is issued, and in the event no civil action is filed within the thirty (30) day period, the order shall be final.

(3) In any civil action the burden of proof shall be upon the party challenging the order. The order shall be deemed prima facie valid. Any party to the civil action may offer evidence for any part of the record of the hearing which resulted in the order, and any other relevant evidence.

(4) In any civil action no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the review board. New evidence may be introduced if, upon motion and for good cause shown, the court determines that the interest of justice will be better served by the introduction of new evidence. The court, sitting without a jury, shall hear the cause upon the record before it. The court shall dispose of the civil action in a summary manner, being limited to determining whether or not: the review board acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity with the provisions of this chapter; the order is clearly erroneous on the basis of reliable, probative, and material evidence contained in the whole record; the order is arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion. The court shall enter its findings in the order book as a judgment of the court, and the judgment shall have the effect and be enforceable the same as any other judgment of the court in civil cases.

(5) The practice, pleading, and proceedings in the civil action shall be in accordance with the Rules of Civil Procedure.

(6) During the pendency of the civil action, the court may stay the order until it shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order, or remand the cause with directions to modify the order to conform to the provisions of this chapter. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

SECTION 19. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) A coalbed methane well penetrating one (1) or more workable coalbeds shall be drilled in a manner that will exclude, if practicable, all coalbed methane or coalbed methane pressure from the workable coalbed, except as is found in the workable coalbed itself. Each string of casing that is run through a workable coal bed shall be seated at least thirty (30) feet below the workable coalbed in twenty (20) feet of cement, mud, clay, or other nonporous material that will make an effective seal. If a second workable coalbed is found less than thirty (30) feet below the first workable coalbed, the casing shall be seated and mudded off as above provided at least thirty (30) feet below the second workable coalbed. If gas is found between the two (2) workable coalbeds, it shall be treated as prescribed by this chapter. After any such string of casing has been properly seated, drilling may proceed immediately.

(2) When a coalbed methane well is drilled through the horizon of a workable coalbed where the coal has been removed, the hole shall be drilled at least thirty (30) feet below the workable coalbed, and shall be of a size sufficient to permit the placing of a liner, which shall start not less than twenty (20) feet beneath the horizon of the workable coalbed and extend not less than twenty (20) feet above it. The largest sized casing to be used in the well shall be centrally placed within this liner. The liner may be welded to the casing to be used, and the space between the liner and the casing shall be filled with cement as the liner and casing are lowered into the hole. Cement shall be placed in the bottom of the hole to a depth of twenty (20) feet to form a sealed seat for both liner and casing. Following the setting of the liner, drilling may proceed. If it is necessary to drill through the horizon of two (2) or more workable coalbeds where the coal has been removed, the liner shall be started not less than twenty (20) feet below the lowest horizon penetrated and shall extend to a point not less than twenty (20) feet above the highest horizon penetrated.

SECTION 20. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

If any coalbed methane well produces coalbed methane, all coal-protecting strings of casing shall remain in place during the life of the well. The top ends of all the strings shall be provided with casing heads or other suitable devices that will allow the free passage of coalbed methane and prevent filling the annular spaces outside the casing with dirt or debris.

SECTION 21. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) No person shall abandon or remove casings from any coalbed methane well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with administrative regulations. Upon the department's plugging of an abandoned coalbed methane well in accordance with the requirements of this subsection, the department may sell all equipment removed from that well by sealed bid, or may include the equipment as part of compensation in the contract for the plugging of the well. Proceeds from the sale shall be deposited into the coalbed methane well plugging fund, established in subsection (3) of Section 24 of this Act.

(2) Not less than thirty (30) days before advertising for bids for the plugging of coalbed methane wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name, Carter Coordinate, and state plane coordinate location, for which the department intends to seek bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, the person shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that

equipment. It shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner described in this subsection or if a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this section.

(3) If a person fails to comply with subsection (1) of this section, any person lawfully in possession of land adjacent to the coalbed methane well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1) of this section, and may maintain a civil action against the owner or person abandoning the well, jointly or severally, to recover the cost of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.

(4) In conjunction with the plugging and abandonment of any coalbed methane well or the reworking of any coalbed methane well, the operator shall restore the surface and any improvements thereon to a condition as near as practicable to their condition prior to commencement of work. The surface owner and operator may waive this requirement in writing, subject to the approval of the department that the waiver is in accordance with its administrative regulations.

SECTION 22. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department shall exercise supervision over the drilling, casing, plugging, and filling of all coalbed methane wells. The department shall exercise supervision over all mining operations in close proximity to any well. The department shall have access to the records and properties of coal, oil, gas and coalbed methane operators when necessary.

(2) The department may receive, or may file on its own motion, formal complaints that drilling or mining operations are being conducted contrary to the provisions of this chapter or to the order of the department or review board, and shall hold administrative hearings on the complaints, in accordance with KRS Chapter 13B. Following a hearing, the department shall issue a final order necessary to secure the proper administration of this chapter.

SECTION 23. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department is hereby authorized to adopt all rules, administrative regulations, and amendments to implement the provisions of this chapter. All rules, administrative regulations, and amendments promulgated under this chapter shall be promulgated by the department after notice and a hearing. At all hearings held to consider any rules, administrative regulations, or amendments thereto, any interested person shall be entitled to be heard.

(2) All hearings shall be held at a time and place as is specified by the department according to rules and regulations promulgated under this chapter. A written record of each hearing shall be kept; however, if not at variance with KRS 61.870 to 61.884, the keeping of a record may be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under this chapter.

(3) Operators shall submit annual production information for each coalbed methane well on a form prescribed by the department.

SECTION 24. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) When any person submits to the department an application for a permit to drill a coalbed methane well, or to reopen, deepen, or temporarily abandon any coalbed methane well which is not covered by a surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five thousand dollars ($5,000). The bonds shall be made in favor of the Department of Natural Resources, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations and that all records required by the department be filed as specified. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of one hundred thousand dollars ($100,000), covering all coalbed methane wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars ($5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars ($5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the coalbed methane well plugging fund, created in subsection (3) of this section, to be used in accordance with the purposes described therein.

(2) A successor to the well operator shall post bond, pay a twenty-five dollar ($25) fee per well to the department, and notify the department in writing in advance of commencing use or operations of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility

under this chapter is granted to the original permittee.

(3) All sums received through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the coalbed methane well plugging fund, which shall be in an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned coalbed methane wells coming within the authority of the department pursuant to this chapter. The plugging of any coalbed methane wells pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

SECTION 25. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person to whom a permit is issued pursuant to this chapter shall file, within ninety (90) days after termination of operations conducted under the permit, with the department for transmittal to the Kentucky Geological Survey on forms to be furnished by the department the following information relating to the well:

- *(a) A copy of the driller's log certified to be true and accurate;*
- *(b) The depth and thickness of all water zones encountered and logged;*
- *(c) The depth of all showing of oil, gas, or coalbed methane;*
- *(d) The depth and thickness of all coal seams encountered; and*
- *(e) A true copy of all electrical surveys and similar logs and surveys taken. If the person to whom the permit is issued obtains a copy of the electrical survey or similar log or survey in electronic form, the operator shall submit the electrical survey or similar log in electronic form if requested by the department.*

(2) Upon request by the department, any person to whom a permit is issued shall save for the Kentucky Geological Survey samples of all cuttings from the well drilled or deepened pursuant to the permit for a period of ninety (90) days after completion thereof.

(3) Upon request by any person furnishing information under this section, the information shall be kept confidential, for a period of one (1) year after the information is furnished by such person.

(4) This section shall not apply to wells drilled or deepened as geological or structure test holes.

SECTION 26. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) In all cases in which there has been a complete severance of the ownership of the coalbed methane from the ownership of the surface to be disturbed, the applicant for a coalbed methane well permit shall comply with all of the substantive requirements of KRS 353.5901 and 353.595.

(2) In all cases other than a complete severance of the ownership of coalbed methane from the ownership of the surface to be disturbed, the applicant for a coalbed methane well shall submit to the department an operations and reclamation proposal at the time of filing an application for a permit to drill, deepen, or reopen a coalbed methane well. The proposal shall be filed on forms provided by the department and shall include:

- *(a) A proposal to prevent erosion of and sedimentation from the well site and all disturbed areas, including roads;*
- *(b) A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks, and other storage facilities, and any other information that may be required by the department. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities; and*
- *(c) Any additional information that the department may require.*

SECTION 27. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Each coalbed methane well permit issued under this chapter shall expire one (1) year after the date issued, unless the drilling, deepening, or reopening of a coalbed methane well is commenced prior to the expiration of the one (1) year period. However, the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant:

- *(a) Notifies the department in writing of the applicant's request for an extension;*
- *(b) Notifies all coal interest holders originally entitled to receive a copy of the plat under Section 3 of this Act;*
- *(c) Submits an affidavit, or verified statement, stating that the information in the original permit application is still correct; and*
- *(d) Submits a fee for the extension in an amount equal to the permit fee required by Section 8 of this Act.*

(2) The extension of the permit term pursuant to subsection (1) of this section shall not create a right to object to the coalbed methane well location under Section 4 of this Act nor to mediation under KRS 353.5901.

SECTION 28. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

In any case where title to subsurface minerals has been severed in such a way that title to natural gas underlying the tract and title to coal underlying the tract are in different persons, it shall be an affirmative defense to any action for willful trespass *arising from the drilling, development, operation, and production of coalbed methane from any coal seam or gob area underlying the tract, that the operator of the coalbed methane well permitted, drilled, completed, and produced the coalbed methane well under color of title of any instrument, deed, or lease for oil and gas purposes from the gas owner, or any instrument, deed, or lease for coal mining purposes from the coal owner.*

SECTION 29. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any rule, administrative regulation, or order promulgated or issued under this chapter, the department may bring suit against the person in the Circuit Court of the county where the violation occurred or is threatened, the Circuit Court in the county in which the defendant resides or in which any defendant resides if there is more than one (1) defendant, or the Franklin Circuit Court to restrain the person from continuing the violation or from carrying out the threatened violation. In the suit, the court shall have jurisdiction to grant without bond or other undertaking the prohibitory or mandatory injunction as the facts may warrant, including a temporary restraining order or injunction.

(2) Whenever it appears that any person is violating any provision of this subchapter, or any rule, administrative regulation or order promulgated or issued hereunder, the Attorney General or any person who is adversely affected by the violation may bring suit to restrain the violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person allegedly violating a provision or any rule, administrative regulation, or order promulgated or issued under this chapter.

SECTION 30. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall be construed as affecting, in any way, the right of any person to enforce or protect, under applicable law, his or her interest in water resources affected by a coalbed methane well or related operations.

(2) The operator of a coalbed methane well shall replace the water supply of an owner of an interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the operation of a coalbed methane well.

SECTION 31. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provision of this chapter shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.

(2) Any person who continues to violate any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter after being notified in writing of the violation by the department, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.

(3) Any person who does any of the following for the purpose of evading or violating this chapter or any administrative regulation or order promulgated or issued under this chapter shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by this chapter, or by any administrative regulation or order under this chapter;

(b) Omits or causes to be omitted from a report, record, account, or memorandum full, true, and correct entries and information as required by this chapter, or by any administrative regulation or order under this chapter; or

(c) Removes from this Commonwealth or destroys, mutilates, alters, or falsifies a report, record, account, or memorandum required by this chapter, or by any administrative regulation or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter, shall be subject to the same penalty as that prescribed in this section for the violation by the other person.

SECTION 32. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall be construed to preclude any coal interest holder from removing support of the surface and any structure or facilities thereon and other strata as such rights may exist in any severance deed or other contract.

(2) Nothing in this chapter is intended to or shall be construed as superseding, impairing, abridging, or affecting any specific contractual rights or obligations now or hereafter existing between the respective owners of coal, oil, gas, or other minerals, or any interests therein.

(3) Nothing in this chapter shall be construed to, or be used or interpreted to, determine ownership.

(4) Nothing in this chapter shall be construed to, or be used or interpreted to, apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353 except for the wells that are to be converted to or operated as coalbed methane wells.

(5) Nothing in this chapter shall be construed to authorize any limitation of production of coalbed methane from any coalbed methane well, lease, drilling unit, pool, field, or property to prevent or control economic waste or to limit production to market demand.

(6) This chapter shall be liberally construed so as to effectuate the declaration of public policy set forth in Section 1 of this

Act.

(7) *Coalbed methane wells shall not be subject to the provisions of KRS Chapter 353, except as expressly provided in this chapter.*

(8) *Gathering lines associated with coalbed methane wells shall be regulated under KRS 353.500(2) and the regulations promulgated thereunder.*

Calendar

HB 251, 288, 342, 492, HJR 65, HB 304, 447, 459, 495, SB 160, HB 446, HCR 17, HJR 113, HB 395, 396, 397, HJR 103, 104, and **105** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 251, 288, 304, 446, 447, 459, 492, 495, HCR 17, HJR 65, 113, SB 160, HB 172, 303, 489, 510, 519,** and **577** have been posted for passage in the Regular Orders of the Day for March 1, 2004.

Report On Enrolled Bills

The Committee on Enrollment reported that **HCR 67** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 9:32 a.m.)

Orders of the Day

HB 331 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 331** be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See February 27, 2004, roll call on **HB 331** - Appendix.)

HB 331 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 331** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 149, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 1 to **HB 149**. Agreed.

Representative Burch moved that **HB 149**, as amended, be passed.

On the roll call the vote was: **Yeas 81, Nays 6**. (See February 27, 2004, roll call on **HB 149** - Appendix.)

HB 149, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 149**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 430 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **HB 430** be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See February 27, 2004, roll call on **HB 430** - Appendix.)

HB 430 was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 430** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 136 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved that **HJR 136** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 27, 2004, roll call on **HJR 136** - Appendix.)

HJR 136 was adopted.

Representative J. Lee moved that the vote by which **HJR 136** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 147, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Belcher moved the adoption of Floor Amendment No. 1 to **HJR 147**. Agreed.

Representative A. Arnold moved that **HJR 147**, as amended, be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 27, 2004, roll call on **HJR 147** - Appendix.)

HJR 147, as amended, was adopted.

Representative A. Arnold moved the adoption of Floor Amendment No. 2 Title to **HJR 147**. Agreed.

Representative A. Arnold moved that the vote by which **HJR 147**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 55 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HJR 55** be adopted.

On the roll call the vote was: **Yeas 88, Nays 0**. (See February 27, 2004, roll call on **HJR 55** - Appendix.)

HJR 55 was adopted.

Representative Ballard moved that the vote by which **HJR 55** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to recommit the followings bills and resolutions to the Committee on Appropriations and Revenue: **HB 395, 396, 397, HJR 103, 104,** and **105**. Agreed.

Representative Adkins moved that the rules be suspended to reassign **HB 240** to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that the rules be suspended to reassign **SB 152** to the Committee on State Government. Agreed.

Representative Adkins moved that the rules be suspended to reassign **SB 151** to the Committee on Education. Agreed.

Representative Adkins moved to suspend the rules to reassign **HR 188** to the House Floor and placed in the Orders of the

Day. Agreed.

Representative Ford moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 59**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Nathan Clark and joins with Representative Danny Ford in expressing deepest sympathy to the Clark Family and all who mourn the loss of this highly-regarded citizen of Wildie, Kentucky. The son of the late Arthur and Sarah Ellen Young Clark, and preceded in death by his daughter Bernice, and six siblings, he is survived by his devoted wife, Katherine Verna Sexton Clark; cherished daughters, Vira Dailey, Shirley Bullen and Brenda Merritt; siblings, George, David, Mattie, Marie, Pearl, and Nancy; five grandchildren; eight great-grandchildren; and, a host of other family members, friends and loved ones. A farmer and retired press operator for the Parker Seal Company; a fifty year Mason; and, the oldest member of the Wildie Christian Church at the time of his passing, Nathan Clark is remembered on this day and honored for the many and generous contributions he made to his family, his community, and to this fine Commonwealth. He will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and four.

Legislative Citation No. 59 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 60**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Mary Rebecca Cope Saylor and joins with Representative Danny Ford in expressing deepest sympathy to the Saylor and Cope Families and all who sorely mourn the loss of this highly-regarded citizen of Brodhead, Kentucky. The daughter of the late John Mack and Elsie Elizabeth Arnold Cope, and preceded in death by siblings, Henderson, James, Ralph, Sue Ella, and Margaret June, she is survived by her beloved husband, Cleston R. Saylor; cherished children, E. Howard Saylor, John Boone Saylor and Cleston Anthony Saylor; eight grandchildren; siblings, Charles, Robert, Cecil and Shirley; and, a host of other family members and friends. An esteemed educator for forty-four years who taught at Jenkins, Brodhead, Old Mt. Vernon High, Pulaski County's Brown School; had served as a counselor at Rockcastle County High School; and was a devoted member of the Brodhead Baptist Church, she is remembered on this day and honored for the many and generous contributions she made to her family, her community, and to this fine Commonwealth. Mary Saylor will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and four.

Legislative Citation No. 60 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 61**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Bob French and joins with Representative Danny Ford in expressing deepest sympathy to the French Family and all who mourn the loss of this highly-regarded citizen of Mt. Vernon, Kentucky. The son of the late Jepp and Cassie Robinson French, he was preceded in death by a son, Terry Bradley, and a sister, Pearl Correll. He is survived by his beloved wife, Betty Ramsey French; children, Coy French, Sandy Wagoner, and Brilla Rose Clemons; brother, Willie French; eight grandchildren; twelve great-grandchildren; and, a host of other family members, friends and loved ones. A supervisor for Kentucky Stone Company for forty-four years; avid gardener and fisherman; and, faithful member of the First Baptist Church, Bob French is remembered on this day and honored for the many and generous contributions he made to his family, his community, and to this fine Commonwealth. He will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and four.

Legislative Citation No. 61 was adopted without objection.

Representative Napier moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Napier moved the adoption of the following **Legislative Citation No. 58**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in honor of Cecil Carlton Sanders of Lancaster, Kentucky, and joins with Representative Lonnie Napier in extending warmest birthday greetings to this distinguished gentleman who will officially celebrate his 90th Birthday on March 2, 2004, and whose friends and family will gather throughout this weekend to wish him heartfelt birthday greetings. A native of Garrard County, Kentucky, Mr. Sanders is an honorable veteran of the United States Navy who served with great valor during World War II; is a former member of the Kentucky House of Representatives where he served for two years and the Kentucky State Senate where he served for four years; is an active member of the American Bar Association, the American Judicature Society, the American Legion, the Freemasons, and Phi Alpha Delta; and, is a faithful member of the Disciples of Christ. Inasmuch as Cecil Carlton Sanders has contributed so richly to the community of Lancaster and Garrard County, Kentucky, to this Commonwealth as a whole, and to the

Nation, by virtue of his lifelong perseverance, integrity, and leadership, the members of this august body are delighted to adjourn this legislative day in honor of this highly-regarded recipient. Done in Frankfort, Kentucky, this twenty-seventh day of February, in the year two thousand and four.

Legislative Citation No. 58 was adopted without objection.

On the roll call for co-sponsors the vote was: **Yeas 86**. (See February 27, 2004, roll call to show co-sponsors on **Legislative Citation No. 86** -Appendix.)

Representative S. Lee moved to consider the Discharge Petition on **HB 31**.

On the roll call to consider the Discharge Petition on **HB 31** the vote was: **Yeas 32, Nays 44**. (See February 27, 2004, roll call to consider the Discharge Petition on **HB 31** -Appendix.)

The motion to consider the Discharge Petition on **HB 31** was defeated.

Representative Gray moved that the rules be suspended to act on a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 205**:

HR 205, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ulus Lee Johnson.

With deepest respect and admiration, we pay homage and tribute to Ulus Lee Johnson, and we pause in silent reverence for his soul.

WHEREAS, Ulus Lee Johnson was born on September 5, 1916, a native of Symsonia, Graves County, Kentucky, and he traversed these earthly bounds on February 23, 2004; and

WHEREAS, Ulus Lee Johnson was the loving son of the late Frank and Ida Tucker Johnson; he was the devoted husband of 55 years to Pauline Johnson; he was the loving father of a daughter, Paulette Johnson Lyles of Mayfield, and three sons, Kentucky Court of Appeals Judge Rick Johnson of Symsonia, Jimmie Johnson of Reidland, and Gary Johnson of Plano, Texas; he was the proud grandfather of four grandchildren, Susannah Martin, Bethany Lyles, Candace Johnson, and Quentin Johnson; and he also leaves behind a loving brother, Daniel A. Johnson, and two loving sisters, Ruby Thweatt and Deltrice Thomasson, all of Symsonia; and

WHEREAS, Ulus Lee Johnson served his country with pride and distinction in the United States Navy Seabees in the Pacific Theater during World War II; and

WHEREAS, Ulus Lee Johnson was an esteemed member of the Graves County community, where he was of the Methodist faith; he was a retired pipefitter and a lifetime member of Plumbers and Steamfitters Local 184 with 60 years of service; he was a two-time representative to the Plumbers and Steamfitters National Convention, and served for 16 years on the Joint Apprentice Committee; and he worked many years as a superintendent with Pip Johnson Construction Company of Calvert City; and

WHEREAS, Ulus Lee Johnson served as past president of the Symsonia Development Council; he was instrumental in organizing the Symsonia Fire Department and establishing the Symsonia Medical Clinic, and was active in establishing water, sewer, and natural gas services to the community; and

WHEREAS, Ulus Lee Johnson was a founding member of the Symsonia Riding Club, and he was known for the stagecoach he built and often drove in parades throughout Western Kentucky; and for the last 23 years, he hosted the annual Symsonia Community Christmas Tree Lighting; and

WHEREAS, the passing of Ulus Lee Johnson has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Ulus Lee Johnson, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ulus Lee Johnson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Pauline Johnson, 12270 State Route 31, Symsonia, Kentucky 42082.

There being no objection, **HR 205** was adopted.

Representative Barrows moved that the rules be suspended to act on a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 180**:

HR 180, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lieutenant Jeffrey C. Graham.

With deepest respect and admiration, we pay homage and tribute to Lieutenant Jeffrey C. Graham, and we pause in silent reverence for his soul.

WHEREAS, Jeffrey C. Graham was born on September 22, 1979, in Landstul, Germany, and he traversed these earthly bounds on February 19, 2004; and

WHEREAS, Jeffrey C. Graham was the loving son of Colonel Mark Graham and Carol Shroat Graham; he was the caring brother of Melanie Graham, and the cherished grandson of Jackie Shroat; and he leaves behind a fiancee, Stacy Martinez; and

WHEREAS, Jeffrey C. Graham was raised in a military family, his father being a United States Army officer, and he learned by example from an early age the meaning of service to country; and

WHEREAS, Jeffrey C. Graham returned to the Commonwealth to attend the University of Kentucky on an ROTC scholarship; while an ROTC member, he led the University of Kentucky Pershing Rifles drill team; in May 2003, he graduated with honors with a degree in civil engineering; and

WHEREAS, in May 2003, Jeffrey C. Graham was commissioned a second lieutenant of armor in the United States Army, and he was assigned to the 1st Battalion, 34th Armor Regiment, 1st Brigade Combat Team, Fort Riley, Kansas; and

WHEREAS, in November 2003, Lieutenant Jeffrey C. Graham was deployed to support Operation Iraqi Freedom as a platoon leader in Company C, 1st Battalion, 34th Armor Regiment; and

WHEREAS, Lieutenant Jeffrey C. Graham was leading a patrol on foot near the town of Khaldiyah, Iraq, when he spotted a bomb strapped to a guardrail and turned to warn the others in his platoon; in doing so, he saved lives in sacrifice of his own; and

WHEREAS, Lieutenant Jeffrey C. Graham served his country with honor and distinction; he exemplified tremendous skill as a soldier, and he was an extremely likable young man with a bright future; and

WHEREAS, the Commonwealth of Kentucky is deeply grateful to Lieutenant Jeffrey C. Graham for the sacrifice he made protecting the freedom of the Iraqi people and ensuring the establishment of democracy; and

WHEREAS, the passing of Lieutenant Jeffrey C. Graham has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lieutenant Jeffrey C. Graham and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lieutenant Jeffrey C. Graham.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Lieutenant Jeffrey C. Graham, Colonel and Mrs. Mark Graham, 231 Kimbel Drive, Frankfort, Kentucky 40601, and to the grandmother of Lieutenant Jeffrey C. Graham, Mrs. Jackie Shroat, 231 Kimbel Drive, Frankfort, Kentucky 40601.

There being no objection, **HR 180** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 84**. (See February 27, 2004, roll call for co-sponsors on **HR 180** - Appendix.)

Representative Adkins moved that the rules be suspended to withdraw the motion to reassign **HB 240** to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 630, by Representatives Wayne and Burch: AN ACT relating to eviction of manufactured home owners and mobile home owners from manufactured and mobile home communities.

HB 631, by Representatives Buckingham and Comer: AN ACT relating to football.

HB 632, by Representative Feeley: AN ACT relating to property tax.

HB 633, by Representatives Higdon and Bruce: AN ACT relating to insurance health care benefit plans and declaring an emergency.

HB 634, by Representatives Higdon and Crimm: AN ACT relating to insurance.

HB 635, by Representative Belcher: AN ACT relating to voter assistance.

HB 636, by Representatives L. Clark, Burch, De. Butler, Horlander, and Jenkins: AN ACT proposing to create a new section of the Constitution of Kentucky and amend Section 226 of the Constitution of Kentucky, relating to casinos.

HB 637, by Representatives L. Clark, Burch, De. Butler, Horlander, Jenkins, and Callahan: AN ACT relating to gaming and making an appropriation therefor.

HB 638, by Representatives Palumbo and T. Thompson: AN ACT relating to tax credits for historic property rehabilitation and construction.

HB 639, by Representatives Hall and Pullin: AN ACT relating to construction of certain electric transmission lines.

HB 640, by Representatives Dw. Butler, Napier, P. Clark, Siler, Embry, Wayne, Pullin, Horlander, Crenshaw, and J. Thompson: AN ACT relating to state service contracts.

HB 641, by Representatives Pasley, Moberly, and J. Lee: AN ACT relating to income tax.

HB 642, by Representative Stacy: AN ACT relating to motor vehicle insurance.

HB 643, by Representative Stacy: AN ACT relating to hospitals.

HB 644, by Representatives Harmon and Meeks: AN ACT relating to residential schools serving students with disabilities operated by the Kentucky Department of Education.

HB 645, by Representative Meeks: AN ACT relating to equity in hiring in the public schools.

HB 646, by Representative Riner: AN ACT relating to breast-feeding.

HCR 206, by Representatives Ballard, Bruce, Damron, Belcher, J. Adams, R. Adams, Nesler, Cherry, Gray, P. Clark, Haydon, Riggs, Reinhardt, Siler, J. Thompson, Pullin, Napier, Hoffman, Weaver, and J. Lee: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veteran's Affairs.

HJR 207, by Representative J. Thompson: A JOINT RESOLUTION directing the Personnel Cabinet to study the feasibility of using a health reimbursement arrangement to supplement state employee health insurance.

HR 208, by Representative Palumbo: A RESOLUTION urging the Council of the Lexington-Fayette Urban County Government to increase the compensation of police and firefighters in Fayette County.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 435, 436**

Health and Welfare: **HB 575**

Local Government: **SB 142, 109**

Motions, Petitions, and Communications (Continued)

Pursuant to House Rule 48, Representative S. Lee filed a Discharge Petition, on **HB 32** signed by Representatives Hoover, Crimm, Montell, Rader, Marcotte, Draud, Fischer, Baugh, Embry, Harmon, Farmer, Siler, Couch, DeWeese, Upchurch, Vincent, Crall, B. Smith, Ford, Cornett, Stewart, Reinhnardt, Nunn, Mobley, Brinkman, Harper, Comer, and Turner.

Pursuant to House Rule 48, Representative Cornett filed a Discharge Petition, on **HJR 126** signed by Representatives Hoover, Fischer, Crimm, Montell, Rader, Marcotte, Draud, Baugh, Harmon, Farmer, Embry, Siler, DeWeese, Couch, Vincent, Crall, Feeley, S. Lee, B. Smith, Ford, Stewart, Reinhnardt, Nunn, Mobley, Brinkman, Harper, Comer, and Turner.

Representative A. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative A. Smith moved that his vote be changed from "nay" to "yea" on the motion to accept the Discharge Petition on **HJR 18**. Agreed.

Representative Meade moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meade moved that his vote be changed from "yea" to "nay" on the motion to accept the Discharge Petition on **HJR 18**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on **HB 430**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 495**, by Representative J. Lee:

HB 495, On page 1, line 10, after the word "***with***" delete "***an out-of-service***" and insert in lieu thereof "***a cease operations order***"; and

On page 1, line 11, before the word "***and***" delete the word "***notice***".

Floor Amendment No. 2 to **HCR 17**, by Representative Jenkins:

HCR 17, On page 1, at the end of the second "WHEREAS" clause after "legislative bodies;", "by inserting the following:

"and

WHEREAS, it is the opinion of this General Assembly that the sanctity of marriage is to be protected and preserved by government; and

WHEREAS, a primary assault on the legally sanctioned union of marriage is no-fault divorce;"; and

On page 1, between lines 4 and 5, by inserting the following:

"Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein, urges the Congress of the United States to enact federal laws to abolish no-fault divorce."; and

On page 1, line 5, by deleting "Section 2." and inserting "Section 3." in lieu thereof.

Floor Amendment No. 3 to **HCR 17**, by Representative Stein:

HCR 17, On page 1, at the end of the second "WHEREAS" clause after "legislative bodies;", "by inserting the following:

"and

WHEREAS, it is the opinion of this General Assembly that the sanctity of marriage is to be protected and preserved by government; and

WHEREAS, a primary assault on the legally sanctioned union of marriage is the marriage of persons unsuited to one another by virtue of many of their attributes;"; and

On page 1, between lines 4 and 5, by inserting the following:

"Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein, urges the Congress of the United States to enact federal laws to prevent the marriage between:

(a) Insurance agents and lawyers;
(b) Doctors and lawyers;
(c) Legislators and poets;
(d) Journalists and members of the Kentucky Governor's staff."; and

On page 1, line 5, by deleting "Section 2." and inserting "Section 3." in lieu thereof.

Floor Amendment No. 6 to the Committee Substitute to **HB 540**, by Representative Walton:

HB 540, On page 1, line 10, delete "***or psychological***".

Amendment No. 8 to the Committee Substitute to **HB 540**, by Representative Walton:

HB 540, On page 4, line 3, after "***incident***" by deleting "***anonymously***" and inserting "***confidentially***" in lieu thereof.

Floor Amendment No. 7 to **HB 540**, by Representative Walton:

HB 540, On page 1, line 10, delete "***or psychological***".

Floor Amendment No. 9 to **HB 540**, by Representative Walton:

HB 540, On page 3, line 18, after "***incident***" by deleting "***anonymously***" and inserting "***confidentially***" in lieu thereof.

Floor Amendment No. 10 to **HB 540**, by Representative Walton:

HB 540, On page 4, between lines 7 and 8, by inserting:

"*(g) Nothing in this section shall be interpreted as discouraging or inhibiting the expression by students or school officials of opinions on political, social, or moral issues including, but not limited to the morality or appropriateness of homosexual behavior.*".

Floor Amendment No. 11 to the Committee Substitute to **HB 540**, by Representative Walton:

HB 540, On page 4, between lines 19 and 20, by inserting:

"*(h) Nothing in this section shall be interpreted as discouraging or inhibiting the expression by students or school officials of opinions on political, social, or moral issues including, but not limited to the morality or appropriateness of homosexual behavior.*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 143, Representative Simpson

HB 226, Representative Riggs

HB 227, Representatives Farmer and Westrom

HB 475, Representative Horlander

HB 577, Representative Cornett

HB 609, Representative Palumbo

HB 627, Representative Vincent

HB 632, Representative Draud

HB 636, Representatives Meeks, Draud, and Miller

HB 637, Representatives Meeks, Draud and Miller

HCR 204, Representative Hoffman

Announcements

The following meeting was announced:

Budget Review Subcommittee on General Government, Finance, and Public Protection - upon adjournment, Room 336

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, March 1, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, March 1, 2004, was adopted by voice vote.

MONDAY, MARCH 1, 2004

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastoral Director Miriam Picconi, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Nunn, and Reinhardt.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 27, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 647, by Representatives Palumbo and Stein: AN ACT relating to the Lexington Community College.

HB 648, by Representative Palumbo: AN ACT relating to economic development.

HB 649, by Representative Palumbo: AN ACT relating to small business.

HB 650, by Representative Bruce: AN ACT relating to health benefit plans.

HB 651, by Representatives Sims and Mobley: AN ACT relating to compensatory time for certified employees.

HB 652, by Representatives Sims and Mobley: AN ACT relating to professional development of certified staff.

HB 653, by Representatives Harmon and Meeks: AN ACT relating to alternative programs for students with developmental disabilities.

HB 654, by Representative J. Lee: AN ACT relating to sales tax.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 203, SCR 93**

Appropriations and Revenue: **HB 624, 632, 638, 641**

Banking and Insurance: **HB 633, 634, 642, SB 177**

Economic Development: **HB 614**

Education: **HB 617, 631, 644, 645, SB 111**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 613, 615, 635, 636**

Health and Welfare: **HB 643, 646, SB 138**

Judiciary: **HB 612, 616, 620, SB 145, 163**

Labor and Industry: **SB 34, 122**

Licensing and Occupations: **HB 637**

Local Government: **HB 619, 630, HCR 198**

Natural Resources and Environment: **HB 628, HJR 196, HCR 202, SB 37**

Seniors, Military Affairs and Public Safety: **HB 618, HCR 206**

State Government: **HB 611, 621, 623, 626, 640, HJR 207**

Tourism Development and Energy: **HB 627, 639, HCR 204**

Transportation: **HB 625, 629**

House Floor: **HR 197, 199, 200, 201, 208**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 605, 467**

Representative Adkins moved to suspend the rules to allow the House to recess. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

HCR 67 delivered to the Senate and signed by the President. Delivered to the Governor on March 1, 2004 at 4:40 p.m.

Orders of the Day

HB 492, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 492**. Agreed.

Representative Callahan moved that **HB 492**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 1, 2004, roll call on **HB 492** - Appendix.)

HB 492, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 492**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 485 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative De. Butler moved that **HB 485** be passed.

On the roll call the vote was: **Yeas 68, Nays 22**. (See March 1, 2004, roll call on **HB 485** - Appendix.)

HB 485 was passed and the title agreed to.

Representative De. Butler moved that the vote by which **HB 485** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 539 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 539** be passed.

On the roll call the vote was: **Yeas 86, Nays 1**. (See March 1, 2004, roll call on **HB 539** - Appendix.)

HB 539 was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 539** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 454, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HB 454**. Agreed.

Representative Hoffman moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 454**. Agreed.

Representative Hoffman moved that **HB 454**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 1, 2004, roll call on **HB 454** - Appendix.)

HB 454, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 454**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 8, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that the Committee Substitute to **HCR 8** be adopted. Agreed.

Representative Vincent moved that **HCR 8**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 1, 2004, roll call on **HCR 8** - Appendix.)

HCR 8, by way of Committee Substitute, was adopted.

Representative Vincent moved that the vote by which **HCR 8**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 473, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Thompson moved the adoption of the Committee Substitute to **HB 473**. Agreed.

Representative T. Thompson moved that **HB 473**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 1, 2004, roll call on **HB 473** - Appendix.)

HB 473, by way of Committee Substitute, was passed and the title agreed to.

Representative T. Thompson moved that the vote by which **HB 473**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 147** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 1, 2004, roll call on **HB 147** - Appendix.)

HB 147 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 147** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that **HB 562** be reassigned to the Committee on Transportation. Agreed.

Representative Adkins moved that the rules be suspended and that **HB 357** be recommitted to the Committee on Transportation. Agreed.

Representative Upchurch moved that the rules be suspended to adopt the Discharge Petition on **HB 223**.

Representative Lindsay inquired whether **HB 223** is the same as the Committee Substitute to **HB 303**.

On the roll call, the vote to suspend the rules to adopt the Discharge Petition on **HB 223** was: **Yeas 33, Nays 30**. (See March 1, 2004, roll call to suspend the rules to adopt the Discharge Petition on **HB 223** - Appendix.)

The motion to suspend the rules to adopt the Discharge Petition on **HB 223** was defeated.

Representative S. Lee moved to consider the Discharge Petition on **HB 32**.

On the roll call to consider the Discharge Petition on **HB 32** the vote was: **Yeas 35, Nays 19**. (See March 1, 2004, roll call to consider the Discharge Petition on **HB 32** - Appendix.)

The motion to consider the Discharge Petition on **HB 32** was defeated.

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HCR 202**. Agreed.

Representative T. Thompson moved the adoption of the following **HR 200**:

HR 200, A RESOLUTION adjourning the House of Representatives in honor of Senator Wendell H. Ford, and praying for his speedy recovery.

WHEREAS, it has come to the attention of this honorable body that our friend, colleague, and mentor, Senator Wendell H. Ford, is recovering from a broken hip suffered in a fall in Ft. Lauderdale, Florida on February 18, 2004, and that he is also recuperating from angioplasty surgery; and

WHEREAS, during his long and illustrious political career, Senator Wendell H. Ford always placed his constituents and the citizens of the Commonwealth of Kentucky first and foremost; he began his political career in 1965 when he was elected to the eighth Senate District; two years later, he was elected Lieutenant Governor, and in 1971, he became Governor; in 1974, he was elected to the United States Senate, where he diligently served for 24 years, including terms as assistant majority leader and assistant minority leader; and

WHEREAS, this honorable body expresses its concern for Senator Wendell H. Ford's medical condition, and prays that he has a speedy and complete recovery;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its sincere concern over Senator Wendell H. Ford's medical condition, and we wish him a speedy recovery during his recuperation.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Senator Wendell H. Ford.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Wendell H. Ford, 220 Daviess, Owensboro, Kentucky 42303.

There being no objection, **HR 200** was adopted.

On the roll call for co-sponsors of **HR 200** the vote was: **Yeas 94**. (See March 1, 2004, roll call to show co-sponsors on **HR 200**-Appendix.)

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 655, by Representative Fischer: AN ACT relating to school finance.

HB 656, by Representative Fischer: AN ACT relating to educational services for expelled students.

HB 657, by Representative Fischer: AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

HB 658, by Representative Fischer: AN ACT relating to abortion.

HB 659, by Representative Fischer: AN ACT to promote the uniform application of civil rights law in the Commonwealth.

HB 660, by Representatives Hoover, Rader, Farmer, Ford, Mobley, Higdon, Feeley, Brinkman, DeWeese, Comer, Kerr, S. Lee, and Harmon: AN ACT relating to the prevailing wage and declaring an emergency.

HB 661, by Representative Harmon: AN ACT relating to child welfare.

HB 662, by Representative Brinkman: AN ACT relating to revenue and taxation.

HB 663, by Representative Brinkman: AN ACT relating to job creation and small business development.

HB 664, by Representatives Callahan, Siler, Draud, A. Arnold, and Haydon: AN ACT relating to highway user fees and local highway construction from such funds.

HB 665, by Representative Pullin: AN ACT relating to school principal certification.

HB 666, by Representative Callahan: AN ACT relating to the crime of failure to return to custody.

HB 667, by Representative Graham: AN ACT relating to social workers.

HB 668, by Representative Callahan: AN ACT relating to local government code enforcement boards.

HB 669, by Representative A. Arnold: AN ACT relating to county clerk fees.

HB 670, by Representative A. Arnold: AN ACT relating to contributions to candidates' campaigns and declaring an emergency.

HB 671, by Representatives Palumbo and Marzian: AN ACT relating to the release of information in child abuse cases.

HB 672, by Representative Palumbo: AN ACT relating to boarding homes.

HB 673, by Representative Palumbo: AN ACT relating to public morals.

HB 674, by Representative Lindsay: AN ACT relating to the courts.

HB 675, by Representative Lindsay: AN ACT relating to state government.

HB 676, by Representative Lindsay: AN ACT proposing to amend Section 226 of the Constitution of Kentucky to permit expanded gambling.

HB 677, by Representative Marzian: AN ACT relating to noncompetition clauses.

HB 678, by Representative Lindsay: AN ACT relating to civil matters.

HB 679, by Representatives Lindsay and Vincent: AN ACT relating to trusts and estates.

HB 680, by Representative Lindsay: AN ACT relating to juries.

HB 681, by Representative Crall: AN ACT relating to state employee health insurance.

HB 682, by Representative Pullin: AN ACT relating to annexation of territories by cities other than cities of the first class.

HB 683, by Representative Barrows: AN ACT relating to government actions and declaring an emergency.

HB 684, by Representative Webb: AN ACT relating to the development of primary health care facilities.

HB 685, by Representative DeWeese: AN ACT relating to diabetes research.

HB 686, by Representative Pasley: AN ACT relating to the Public Service Commission.

HB 687, by Representative Palumbo: AN ACT relating to the death penalty.

HB 688, by Representative Gray: AN ACT relating to the composition of the Kentucky State Board of Medical Licensure.

HB 689, by Representative Gray: AN ACT relating to voyeurism.

HB 690, by Representative Gray: AN ACT relating to retirement.

HB 691, by Representative Gray: AN ACT relating to physician profiles.

HB 692, by Representative Jenkins: AN ACT relating to instant races.

HB 693, by Representative Jenkins: AN ACT relating to horse racing.

HB 694, by Representatives Miller, Burch, L. Clark, Horlander, Sims, and Siler: AN ACT relating to consumer protection.

HB 695, by Representative Wayne: AN ACT relating to continuing care retirement communities.

HB 696, by Representative Weaver: AN ACT relating to special license plates.

HB 697, by Representative Riggs: AN ACT relating to the tax collection duties of the sheriff in counties containing a consolidated local government and declaring an emergency.

HB 698, by Representatives Jenkins, Burch, P. Clark, and Feeley: AN ACT relating to crimes and punishments.

HB 699, by Representatives Belcher and Denham: AN ACT relating to special license plates.

HB 700, by Representatives Palumbo and T. Thompson: AN ACT relating to economic development.

HB 701, by Representative Graham: AN ACT relating to local industrial development authorities.

HB 702, by Representative Barrows: AN ACT relating to health benefit plan coverage of infertility.

HB 703, by Representatives Horlander, Jenkins, L. Clark, P. Clark, Meeks, Miller, Burch, Wayne, De. Butler, Feeley, and Bratcher: AN ACT relating to county detectives.

HB 704, by Representatives Horlander, L. Clark, P. Clark, Meeks, Miller, Jenkins, Burch, and Wayne: AN ACT relating to the research challenge trust fund.

HB 705, by Representative Horlander: AN ACT relating to charitable gaming.

HB 706, by Representative Webb: AN ACT relating to state contracts.

HB 707, by Representative Webb: AN ACT relating to mortgage loans.

HB 708, by Representative Barrows: AN ACT relating to horse racing.

HB 709, by Representative Barrows: AN ACT relating to postsecondary education and declaring an emergency.

HB 710, by Representatives Thomas and Moberly: AN ACT relating to biofuels.

HB 711, by Representative Thomas: AN ACT relating to agriculture.

HB 712, by Representative Damron: AN ACT relating to athletics.

HB 713, by Representative Nesler: AN ACT relating to search and rescue.

HB 714, by Representative Barrows: AN ACT relating to revenue and taxation, making an appropriation, and declaring an emergency.

HB 715, by Representative Upchurch: AN ACT relating to public safety.

HJR 209, by Representative Fischer: A JOINT RESOLUTION naming the "Lloyd Rogers Highway" in Campbell County.

HCR 210, by Representative Westrom: A CONCURRENT RESOLUTION creating a task force on trafficking in persons.

HJR 211, by Representative Palumbo: A JOINT RESOLUTION directing the Cabinet for Health Services to study the problem of teenage in-vehicle drinking and related drug abuse.

HJR 212, by Representative Nelson: A JOINT RESOLUTION naming the "Reverend Hobart Dail Sowders Memorial Highway" in Bell County.

HR 213, by Representative Gray: A RESOLUTION urging the Kentucky Community and Technical College System to place highest priority on the equitable distribution of pay raises for faculty and staff.

HJR 214, by Representative Belcher: A JOINT RESOLUTION relating to the delegation of the governance and management responsibilities of the Lexington Community College to the Kentucky Community and Technical College System and declaring an emergency.

HCR 215, by Representative Riner: A CONCURRENT RESOLUTION relating to plaques and memorial displays.

HJR 216, by Representative Riner: A JOINT RESOLUTION requiring a plaque and/or monument honoring Martin Luther King, Jr. and the African-American ministers of Kentucky by the floral clock on the grounds of the New Capitol Annex.

HCR 217, by Representative Barrows: A CONCURRENT RESOLUTION relating to the governance and management responsibilities for the Lexington Community College.

HJR 218, by Representatives Nesler, Thomas, A. Arnold, Belcher, Buckingham, McKee, Pasley, R. Adams, Crenshaw, and Richards: A JOINT RESOLUTION reauthorizing the Kentucky Aquaculture Task Force, and making an appropriation therefor.

HR 219, by Representative Geveden: A RESOLUTION urging that an agreement should be reached between Murray State University and Kentucky's Tourism Development Cabinet for the transfer of Wickliffe Mounds Research Center.

HCR 220, by Representative Westrom: A CONCURRENT RESOLUTION authorizing and directing the creation of a Task Force on Horse Farming.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Tourism Development and Energy: **HB 490, 524**

Health and Welfare: **HB 571**

Economic Development: **HB 593, 609**

Natural Resources and Environment: **HCR 202, SB 154**

Judiciary: **HB 222, 374, 401, 550, 581, 606, SB 163**

Education: **HB 603, 604, 28, 311, 488, HCR 172, HR 174, HJR 195, SB 151, 52, 63, 80, 92, 100, 124**

Motions, Petitions, and Communications (Continued)

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on the motion to consider the Discharge Petition on **HB 32**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that his vote be changed from "nay" to "yea" on the motion to consider the Discharge Petition on **HB 31**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that his vote be changed from "yea" to "nay" on the motion to consider the Discharge Petition on **HB 32**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 539**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 139, 428, 380, 132, 471, 323, 518, 549, 149, 430, 331, HJR 107, 116, 55, 136,** and **147**. Agreed.

Representative Meade moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meade moved that he be recorded as voting "yea" on **HB 147**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 492, 485,** and **539**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that her vote be changed from "nay" to "yea" on **HB 539**. Agreed.

Floor Amendments

House Floor Amendment No. 1 to the Committee Substitute to **SB 28**, by Representative Rasche:

SB 28, On page 6, line 3, after "***State***" by inserting "***and local***".

Floor Amendment No. 1 to the Committee Substitute to **HB 25**, by Representative Feeley:

HB 25, On page 1, line 3, to delete "***specified in Section 2 of this Act***"; and

On page 2, line 12, to place brackets around and strike through the words "as a precursor".

Floor Amendment No. 2 to **HB 459**, by Representative Comer:

HB 459, On page 1, line 8, after the subsection number "(2)" and before the word "upon" delete all the new language on line 8, and change the lowercase word "upon" to an uppercase word "Upon"; and

On page 1, line 9, after "186A.520" delete the opening bracket "[" and remove the strike throughs from the remainder of line 9; and

On page 1, line 10, remove the strike throughs from the word and comma "section," and delete the closing bracket "]"; and

On page 1, line 23, after the word "title" delete "***shall not***", and remove the brackets around and the strike throughs from the word "may", and after the word "issued" delete the words "***to any vehicle***"; and

On page 1, line 24, delete the word "***with***" and remove the brackets around and the strike throughs from the word "from"; and

On page 1, line 25, after the word "classification" delete "***. A vehicle***"; and

On page 2, lines 1 and 2, delete lines 1 and 2 in their entirety; and

On page 2, line 3, before the opening bracket "[" delete all the new language on line 3, and delete the opening bracket "[", and remove the strike throughs from the remainder of line 3; and

On page 2, lines 4 through 14, remove all the strike throughs on lines 4 through 14; and

On page 2, line 14, before the period "." delete the closing bracket "]"; and

On page 2, between lines 14 and 15, insert the following:

"***(d) The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as "junk," "unrebuildable," or other similar designation who is making application for a Kentucky title may be issued a title with the words "REBUILT - May Not Be Eligible To Be Titled In All States" printed on the face of the title.***"; and

On page 3, line 19, after the words and period "REBUILT VEHICLE."" and before the word "This" insert the following:

"***The disclosure shall include a place for the owner to designate if the vehicle may not be eligible to be titled in all states.***".

Floor Amendment No. 1 to **HB 510**, by Representative Riggs:

HB 510, On Page 3, after line 8, by inserting the following new sections,

"Section 3. KRS 134.420 is amended to read as follows:

(1) The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for ten (10) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes. The lien shall include all interest, penalties, fees, commissions, charges, ***costs, reasonable attorney fees,*** and other expenses incurred by reason of delinquency in payment of the tax bill ***or certificate of delinquency*** or in the process of collecting ***either***~~[it]~~, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county, or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated. Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

(2) If any person liable to pay any tax administered by the Revenue Cabinet, other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax

lien has been filed by the secretary of the Revenue Cabinet, or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the secretary of the Revenue Cabinet or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the Revenue Cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

Section 4. KRS 134.500 is amended to read as follows:

(1) ***Certificates of delinquency***[~~Uncollectible tax claims~~] shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The ***five dollar ($5)*** sheriff's [~~add-on~~] fee***, the advertising costs provided in Section 3 of this Act***[~~provided in KRS 134.430~~], the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be ***included in***[~~excluded from~~] the interest calculation [~~except~~] in counties containing cities of the first class or consolidated local government ***and shall be excluded in other counties, except upon adoption of an ordinance by a county to include in the interest calculation the fees provided for in Section 3 of this Act, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section***. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he ***or she*** makes ***the***[~~his~~] next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his ***or her*** duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him ***or her*** special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his ***or her*** full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.".

Floor Amendment No. 2 Title to **HB 510**, by Representative Riggs:

HB 510, Amend title to read, "An ACT relating to delinquent taxes.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 290, Representative Siler

HB 336, Representative Palumbo

HB 438, Representative Riggs

HB 454, Representative McKee

HB 483, Representatives Palumbo and Crenshaw

HB 519, Representative Vincent

HB 572, Representative Farmer

HB 615, Representatives Lindsay and Vincent

HB 616, Representative Nelser

HB 617, Representative Pullin

HB 627, Representative L. Clark

HB 636, Representative Haydon

HB 637, Representative Haydon

HB 650, Representative Gooch

HCR 8, Representative Belcher

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 500, Representative Collins

Announcements

The following meetings were announced:

Majority Caucus: Upon recess, Supreme Court Chambers

Committee on Natural Resources and Environment: Tuesday, March 2, 2004, 8:30 a.m., Room 131

Committee on Labor and Industry: Tuesday, March 2, 2004, 12:00 Noon, Room 125

Committee on State Government: Tuesday, March 2, 2004, 12:00 Noon

Committee on Seniors, Military Affairs, and Public Safety: No meeting on Tuesday, March 2, 2004

Committee on Local Government: Tuesday, March 2, 2004, 10:00 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Tuesday, March 2, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 2, 2004, was adopted by voice vote.

TUESDAY, MARCH 2, 2004

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 1, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 221, by Representative Crimm: A RESOLUTION adjourning the House of Representatives in honor of Michael Eady upon being the recipient of a National Heroism Award presented by the Boy Scouts of America.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 663, 710, 711, HJR 218, HCR 220**

Appropriations and Revenue: **HB 654, 662, 714**

Banking and Insurance: **HB 650, 702, 707**

Economic Development: **HB 648, 649, 700, 701**

Education: **HB 647, 651, 652, 653, 655, 656, 665, 704, 709, HJR 214, HCR 217, HR 219**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 657, 670, 676**

Health and Welfare: **HB 658, 661, 667, 671, 672, 684, 685, 688, 691, 695, HJR 211**

Judiciary: **HB 666, 673, 674, 678, 679, 680, 687, 689, 698**

Labor and Industry: **HB 659, 660, 677**

Licensing and Occupations: **HB 692, 693, 694, 705, 708, 712**

Local Government: **HB 668, 669, 682, 697, 703, 713**

State Government: **HB 675, 681, 683, 690, 706, HCR 210, 215, HJR 216**

Tourism Development and Energy: **HB 686**

Transportation: **HB 664, 696, 699, 715, HJR 209, 212**

House Floor: **HR 213**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 399, 596, HJR 18, HB 562, HJR 192, HB 511, 419, HJR 10, 126, HB 526, HCR 194**

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 342** and **10** have been posted for passage in the Regular Orders of the Day for March 3, 2004.

The Committee on Rules reported that the following Bill has been recommitted:

Labor and Industry: **HB 499**

Orders of the Day

HR 188 taken from the Orders of the Day and ordered read at length. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HR 188** be adopted.

HR 188, A RESOLUTION expressing support for the statewide implementation of the 2-1-1 dialing code for health and human service information and referral.

WHEREAS, "2-1-1" is an easy-to-remember telephone number that facilitates critical connections between individuals and families seeking human service agencies, including community-based and faith-based organizations and government programs, or both; and

WHEREAS, there are approximately 900,000 nonprofit organizations in the United States, and families and individuals often have difficulty navigating the complex and ever-growing maze of human services agencies and programs to find the services that they need; and

WHEREAS, federal, state, and local government funding supports well-intentioned programs that are not fully utilized because of a lack of access to information on such programs; and

WHEREAS, 2-1-1 will reduce the number of inappropriate calls to government offices by directing consumers to the appropriate human services agency, resulting in a more effective use of government services; and

WHEREAS, 2-1-1 is efficient and cost effective and will increase the efficiency and operations of a beleaguered and overcomplicated health and human service delivery system, and will save both private and state government dollars; and

WHEREAS, getting a person the correct information at the right time allows him or her to get help sooner, and usually at a lower cost, and allows resources invested in nonprofit programs and/or government services to go further so that more people can be served; and

WHEREAS, 2-1-1 currently reaches 23% of the United States population and is a model public/private partnership currently funded by state and local governments, United Ways, and other nonprofit organizations, foundations, and corporate donations; and

WHEREAS, 2-1-1 brings the public and private sector together in ways never before seen to leverage and stretch resources for the good of each citizen; and

WHEREAS, 2-1-1 will streamline access to existing services, improve implementation of services, enhance information for community planning, increase civic involvement, and serve as a focal point for developing policies that address community needs through identifying gaps in local services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly, the Executive Branch of the Commonwealth, and all other involved entities, acting on behalf of the interests of the people of the Commonwealth, should move expeditiously to support efforts to establish and effectively implement a 2-1-1 system.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 2, 2004, roll call on **HR 188** - Appendix.)

HR 188 was adopted.

Representative Adkins moved that the vote by which **HR 188** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 577, with Committee Substitutes attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of the Committee Substitute No. 2 to **HB 577**. Agreed.

Representative Buckingham moved that **HB 577**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 2, 2004, roll call on **HB 577** - Appendix.)

HB 577, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 577**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 113, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HJR 113**. Agreed.

Representative Cherry moved that **HJR 113**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 2, 2004, roll call on **HJR 113** - Appendix.)

HJR 113, by way of Committee Substitute, was adopted.

Representative Cherry moved that the vote by which **HJR 113**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 128 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HJR 128** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 2, 2004, roll call on **HJR 128** - Appendix.)

HJR 128 was adopted.

Representative Webb moved that the vote by which **HJR 128** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 290, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 290**. Agreed.

Representative Geveden moved that **HB 290**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 2, 2004, roll call on **HB 290** - Appendix.)

HB 290, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 290**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 65 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HJR 65** be adopted.

On the roll call the vote was: **Yeas 100, Nays 0**. (See March 2, 2004, roll call on **HJR 65** - Appendix.)

HJR 65 was adopted.

Representative Siler moved that the vote by which **HJR 65** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 489 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 489** be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 2, 2004, roll call on **HB 489** - Appendix.)

HB 489 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 489** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 28, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Edmonds moved the adoption of the House Committee Substitute to **SB 28**. Agreed.

Representative Rasche moved the adoption of House Floor Amendment No. 1 to the Committee Substitute to **SB 28**. Agreed.

Representative Edmonds moved that **SB 28**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 2, 2004, roll call on **SB 28** - Appendix.)

SB 28, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Edmonds moved that the vote by which **SB 28**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 251, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Belcher moved the adoption of the Committee Substitute to **HB 251**. Agreed.

Representative Belcher moved that **HB 251**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 2, 2004, roll call on **HB 251** - Appendix.)

HB 251, by way of Committee Substitute, was passed and the title agreed to.

Representative Belcher moved that the vote by which **HB 251**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 288 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bather moved that **HB 288** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 2, 2004, roll call on **HB 288** - Appendix.)

HB 288 was passed and the title agreed to.

Representative Bather moved that the vote by which **HB 288** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 528 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 528** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 2, 2004, roll call on **HB 528** - Appendix.)

HB 528 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 528** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 17, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HCR 17** be adopted.

Representative Jenkins moved the adoption of Floor Amendment No. 2 to **HCR 17**.

Representative Ford inquired whether Floor Amendment No. 2 to **HCR 17** is germane.

The Speaker ruled that Floor Amendment No. 2 is germane.

Representative Ford inquired whether Floor Amendment No. 2 pertains to the Constitutional Amendment.

The Speaker ruled that Floor Amendment No. 2 was in order.

On the roll call on Floor Amendment No. 2 the vote was: **Yeas 29, Nays 50**. (See March 2, 2004, roll call on **HCR 17** - Appendix.)

Floor Amendment No. 2 to **HCR 17** was defeated.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **HCR 17**.

Representative Ford inquired whether Floor Amendment No. 1 is germane.

The Speaker ruled that Floor Amendment No. 1 to **HCR 17** is not germane.

On the roll call the vote was: **Yeas 75, Nays 11**. (See March 2, 2004, roll call on **HCR 17** - Appendix.)

HCR 17 was adopted.

Representative Gray moved that the vote by which **HCR 17** was adopted be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 115, 135, HB 295, 341, HCR 23, 24, 31, 34,** and **66**.

Message received in regard to **HB 116**: The Senate has passed **HB 116** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body. (4:10 p.m.)

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HB 627, 650, 708,** and **631**. Agreed.

Representative Adkins moved that the rules be suspended and that **HR 189** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Adkins moved that the rules be suspended and that **HB 655** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Rasche moved that the rules be suspended to act on a Resolution. Agreed.

Representative Rasche moved the adoption of the following **HR 169**:

HR 169, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ethel Blanche Richardson Alston.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, Ethel Blanche Richardson Alston, and we pause in silent reverence for her soul.

WHEREAS, Ethel Alston was born on March 24, 1949, a native of Durham, North Carolina, and longtime resident of Jefferson County, Kentucky, and she traversed these earthly bounds on May 3, 2003; and

WHEREAS, Ethel Alston was the loving daughter of the late Lena and Ernest Richardson; and

WHEREAS, Ethel Alston leaves behind her husband, Virnal Jeffery Alston, with whom she entered into the bonds of holy matrimony on August 25, 1973; a son, Elliott Richardson Alston, and a daughter, Erin Lynette Alston, both of Prospect; a stepson, Virnal Jeffery Alston Jr., a stepdaughter, Angela Alston-Roberts, and a son-in-law, Jonathan Roberts, all of Philadelphia, Pennsylvania; a sister, Ernestine Richardson Williams, and a brother-in-law, Bobbie L. Williams, both of Durham, North Carolina; a sister, Winifred Richardson Davis, and a brother-in-law, Joseph A. Davis, both of New York City; a brother-in-law, Edward D. Alston Jr., and a sister-in-law, Sheila Jackson Alston, both of Los Angeles and the Caribbean; many loving nieces, nephews, and cousins; and a host of loving and supportive friends; and

WHEREAS, Ethel Alston graduated from Hillside High School in Durham, North Carolina, where she was a member of the National Honor Society, and the English, Math, and Drama Clubs; she received her Bachelor of Arts degree in History from Spelman College in Atlanta, Georgia in 1970; she enrolled in the North Carolina Central University Law School, where she pursued her love of the law and, during this time, she joined the graduate chapter of Alpha Kappa Alpha Sorority; and she and her husband hold the distinction of being the first African-American couple in Kentucky to be admitted together to the Kentucky Bar Association; and

WHEREAS, Ethel Alston was an esteemed member of the Jefferson County community, where she was a member of The Girlfriends, Inc., the Louisville Chapter of Jack and Jill, and the Spelman-Morehouse Alumni Association; and

WHEREAS, Ethel Alston was baptized into the Christian faith when she was eight years of age at White Rock Baptist Church in Durham, North Carolina; she worshipped for many years at the Church of Our Merciful Savior in Louisville; and at the time of her passing, she was a devout member of Green Castle Baptist Church in Prospect, where her funeral service was held on May 7, 2003; and

WHEREAS, during her career as a Legislative Analyst and Attorney with the Legislative Research Commission, Ethel Alston was a member of the Education Committee Staff, where she exemplified dedication, professionalism, and high standards, and she was an invaluable asset to the members of the Kentucky General Assembly, always walking that extra mile to meet our needs and expectations; and

WHEREAS, when we remember Ethel Alston, we are reminded of the many friendships she made and sustained throughout her life; she carried herself with dignity and pride; she was intelligent, elegant, and energetic; and she was, without doubt, a very "classy lady"; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and through her compassion, self-sacrifice, enthusiasm, and genuine love and concern for her fellow man, Ethel Alston is worthy of the highest commendation; and

WHEREAS, the passing of Ethel Blanche Richardson Alston has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of our friend and colleague, Ethel Blanche Richardson Alston, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ethel Blanche Richardson Alston.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Virnal Jeffery Alston, 8707 Lynn Hall Court, Prospect, Kentucky 40059.

There being no objection, **HR 169** was adopted.

Representative T. Thompson moved that the rules be suspended to act on Resolutions. Agreed.

Representative T. Thompson moved the adoption of the following **HR 197**:

HR 197, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Earl Mac "Mack" Cambron.

With deepest respect and admiration, we pay homage and tribute to Earl Mac "Mack" Cambron, and we pause in silent reverence for his soul.

WHEREAS, Earl Mac Cambron was born on April 19, 1932, a native of Daviess County, Kentucky, and he traversed these earthly bounds on February 23, 2004; and

WHEREAS, Earl Mac Cambron was the loving son of Beulah Mae Kasinger Cambron and the late Henry Estle Cambron; he was the devoted husband of 33 years to Nina Margaret Boling Cambron; he was the loving father of two sons, Nick Cambron and Jeff King, both of Owensboro, and five daughters, Jonnie Cambron Staton, Alice Cambron Jewell, Jamie Cambron Moss, Teresa King Mitchell, and Gina King Hardesty, all of Owensboro; he was the loving father-in-law of Margaret Cole Cambron, Alicia Millay King, Billy Staton, Ross Jewell, Larry Moss, Lee Allen, and Paul Hardesty; he was the proud grandfather of 16 grandchildren, Brad, Stacy, Jon, Chris, Missy, Cambron, Whitney, Megan, Michael, Kaysie, Kerry, Chelsea, Cody, Zach, Haley, and Keeley; and he also leaves behind a loving brother, Norman Lee Cambron, and two loving sisters, Fayrene Cambron Hans and Barbara Cambron Shouse, all of Owensboro; and

WHEREAS, Earl Mac Cambron served his country with honor and distinction in the United States Air Force; and

WHEREAS, Earl Mac Cambron was an esteemed member of the Daviess County community, where he was owner and founder of the Owensboro Body Shop for 45 years, and he was always proud that he was born within two blocks of where he was in business since 1955; he was a history buff, and had an extensive knowledge of Daviess County history, and he has a taped interview running on cable channel 51 in Owensboro; and he was a 32nd degree Mason, and a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, Earl Mac Cambron's generosity and affable manner will be sorely missed by all who had the good fortune of knowing him; he was a kind and compassionate person, as was demonstrated when he and his wife, Nina, befriended an Amish community by providing Amish children with food, clothes, and other items of necessity, and he continued this service until his illness; and

WHEREAS, Earl Mac Cambron was a member of Eaton Memorial Baptist Church, where he was a choir member, and where his funeral service was held on February 25, 2004; and

WHEREAS, the passing of Earl Mac "Mack" Cambron has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Earl Mac "Mack" Cambron, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Earl Mac "Mack" Cambron.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Nina Margaret Boling Cambron, 2000 Airport Road, Owensboro, Kentucky 42301.

There being no objection, **HR 197** was adopted.

Representative T. Thompson moved the adoption of the following **HR 201**:

HR 201, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bob D. Martin.

With deepest respect and admiration, we pay homage and tribute to Bob D. Martin, and we pause in silent reverence for his soul.

WHEREAS, Bob D. Martin was born on January 25, 1935, a native of Evansville, Indiana, and longtime resident of Daviess County, Kentucky, and he traversed these earthly bounds on February 20, 2004; and

WHEREAS, Bob D. Martin was the loving son of the late Marvin W. and Christine Haney Martin; he was the devoted husband of 22 years to Marsha Pointer Martin; he was the loving father of two sons, Rick Martin of Evansville, Indiana, and James Martin of Dallas, Texas; he was the proud grandfather of three grandchildren, Shane Martin of San Francisco, California, Ben Martin of Caldwell, West Virginia, and Dylan Martin of Evansville, Indiana; and he also leaves behind a loving sister, Marva Dean Cutsinger of Indianapolis, Indiana; and

WHEREAS, Bob D. Martin was an esteemed member of the Daviess County community, where he was the owner-operator of Martin's Amusement Company, and at the time of his passing, he was a deputy constable; he was a member of the Kentucky State OSHA Board, a member of the Daviess County Democratic Party, and he was named Daviess County Democratic Man of the Year 2003; he was a member of the American Music Operators Association, a former owner/operator of The Turf Club, a member of the Bonny Castle Club of Louisville, and he was a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, Bob D. Martin was a devout member of the First Baptist Church in Owensboro, where he was active in the Maverick Sunday School class, and where his funeral service was held on February 23, 2004; and

WHEREAS, the passing of Bob D. Martin has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Bob D. Martin, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Bob D. Martin.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Marsha Pointer Martin, 771 Dove Court, Owensboro, Kentucky 42301.

There being no objection, **HR 201** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 222, by Representative Stacy: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James O. Day.

HCR 223, by Representatives Hoover and Geveden: A CONCURRENT RESOLUTION urging the House Armed Services Committee as well as the entire United States Congress to adopt H.R. 327 awarding a Medal of Honor posthumously to First Lieutenant Garlin Murl Conner.

Motions, Petitions, and Communications (Continued)

Pursuant to House Rule 48, Representative Fischer filed a Discharge Petition on **HB 312,** signed by Representatives Crall, Mobley, Walton, Crimm, Harmon, Embry, Montell, Baugh, Cornett, Rader, Brinkman, S. Lee, Stewart, Farmer, Harper, B. Smith, Couch, Kerr, Ford, Turner, Hoover, Upchurch, Nunn, Comer, Feeley, Dw. Butler, Marcotte, and Bratcher.

Pursuant to House Rule 48, Representative Nunn filed a Discharge Petition on **HB 265,** signed by Representatives Feeley, Walton, Crimm, Harmon, Embry, Montell, Baugh, Rader, Cornett, S. Lee, Brinkman, Mobley, Stewart, Farmer, Harper, B. Smith, Couch, DeWeese, Kerr, Ford, Turner, Hoover, Upchurch, Comer, Crall, Dw. Butler, Marcotte, and Bratcher.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HCR 187, 203**

Banking and Insurance: **HB 650, 633, 634, 579, 578, 555**

Economic Development: **HB 614**

Education: **HB 631**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 387, 635, 615, HCR 4, HCR 102**

Judiciary: **HB 536, 679, SB 155, HB 318**

Licensing and Occupations: **HB 96, 637**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 537, HCR 190,** and **HCR 202**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 537, AN ACT relating to mines and minerals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.280 is amended to read as follows:

(1) (a) As used in this section, "he or she" includes "person" as defined in KRS 350.010.

(b) If a permittee or operator has been issued a notice or order directing abatement of a violation on the basis of an imminent danger to health and safety of the public or significant imminent environmental harm,[~~ and the violation involves an order of cessation and immediate compliance or an order to abate and alleviate in which the cabinet directs the permittee or operator to begin immediate abatement of the violation,~~] and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of that property has refused access, an easement of necessity is recognized on behalf of the permittee or operator for the limited purpose of abating that violation. The easement of necessity becomes effective, and the permittee or operator is authorized to enter the property to undertake immediate action to abate the violation if he or she concurrently:

1. Provides to the property owner or legal occupant a copy of the cabinet's order;
2. Provides to the property owner or legal occupant and cabinet an affidavit that he or she has been denied access to the property; and
3. Provides to the property owner or legal occupant a statement that he or she, the permittee or operator, ***will diligently pursue abatement of the violation, and*** will obtain an appraisal completed by a[~~ certified~~] real estate appraiser ***certified under KRS Chapter 324A***[~~or other qualified appraiser~~] of the damages to the property, including loss of use, that ***have resulted***[~~will result~~] from the violation,[~~ as abated, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation,~~] that the appraisal will be completed and provided to the property owner or legal occupant within three (3) days of ***abatement of the violation by***[~~entry of~~] the operator or permittee, and that he or she will pay the property owner or legal occupant the amount of the damages in the permittee or operator's appraisal at that time.

(c) Following the effective date of the easement of necessity, the following procedure shall be followed with respect to the appraisal of the damages[~~ that will result from the violation, as abated, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation~~]:

1. The permittee or operator shall have ***a certified***[~~an~~] appraiser on the site and have his or her appraisal completed and submitted to the property owner or legal occupant within three (3) days of ***abatement of the violation***[~~entry on the property~~] by the operator or permittee;
2. The property owner or legal occupant shall accept or reject this appraisal in writing within ***seven (7)***[~~three (3)~~] days of receipt of the completed appraisal;
3. If the property owner or legal occupant rejects this appraisal, he or she may hire a[~~ certified~~] real estate appraiser ***certified under KRS Chapter 324A***[~~or other qualified appraiser~~] to appraise the damages, including loss of use, that ***have resulted***[~~will result~~] from the violation, ***and this such appraisal shall be completed and provided to the permittee or operator within thirty (30) days of receipt of the permittee's or operator's completed appraisal***[~~as abated, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation~~]. Upon receipt of the invoice the permittee or operator shall pay for the property owner or legal occupant's appraisal up to the amount he or she paid for his or her own appraisal; and
4. If the property owner or legal occupant ***accepts the permittee or operator's appraisal, the permittee or operator shall promptly pay the property owner or legal occupant the amount of the damages reflected therein***[~~has the appraisal done, he or she shall have it completed and provided to the permittee or operator within seven (7) days of receipt of the permittee's or operator's completed appraisal~~].

(d) If the property owner or legal occupant has an appraisal done, and if, based on his or her appraisal and the permittee's or operator's appraisal, an agreement is not reached on the appraised damages, the permittee or operator shall pay the property owner or legal occupant the amount of the permittee's or operator's appraisal damages, and if the property owner or legal occupant's appraisal damages are for more than the permittee's or operator's, the permittee or operator shall pay the difference to the circuit clerk, in the county in which the majority of the property lies, to be placed in an interest-bearing account in a bank until final resolution of the matter by agreement or court or jury judgment. If the property owner or legal occupant is granted award of some or all of the difference, he or she shall also receive the interest on that portion of the difference.

(e) If the property owner or legal occupant does not accept or reject the permittee's or operator's appraisal and offer of funds for damages ***within the time specified in subparagraph 2. of paragraph (c) of this subsection, the appraisal and offer shall be deemed accepted***[~~, the operator or permittee shall pay the appraised damages to the circuit clerk within three (3) business days of the nonacceptance. These funds shall be placed in an interest-bearing account in a bank until resolution of the matter by agreement or court or jury judgment~~].

(f) The appraiser shall calculate the damages to the property, including loss of use, that have resulted from the violation which the owner or the legal occupant shall be entitled to under this subsection as the difference between the fair market value of the property before the violation and after the abatement of the violation, plus the reasonable rental value of the property during the period of time between the effective date of the easement of necessity and the date of the abatement of the violation.

(2) If a permittee or operator has been issued a notice or order directing abatement of a violation other than one described in

subsection (1) of this section, and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of that property has refused access, an easement of necessity is recognized on behalf of the permittee or operator, for the limited purpose of allowing a[~~ certified~~] real estate appraiser ***certified under KRS Chapter 324***[~~or other qualified appraiser~~], chosen by the permittee or operator, to enter upon the property to which the owner or legal occupant has refused access in order for the appraiser to appraise the damages, including loss of use, that ***likely*** will result from the violation[~~, as abated, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation~~].

(3) (a) The easement for the limited purpose of allowing the appraisal ***under subsection (2) of this section*** shall be recognized and take effect when the operator or permittee:

1. Provides to the property owner or legal occupant a copy of the cabinet's order;
2. Provides to the property owner or legal occupant and cabinet a plan of remedial measures to abate the violation;
3. Provides to the property owner or legal occupant and cabinet an affidavit that he or she has been denied access to the property; and
4. Provides to the property owner or legal occupant a statement that he or she, the permittee or operator, will within seven (7) days of entry of the appraiser obtain an appraisal[~~, by a certified real estate appraiser or other qualified appraiser,~~] of the damages to the property including loss of use, that ***likely*** will result from the violation,[~~ as abated, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation,~~] and that upon completion of the appraisal he or she will provide the appraisal to the property owner or legal occupant and pay the property owner or legal occupant ***an entry fee. The entry fee shall be calculated as one-half (1/2) of the amount of the appraisal or the sum of five hundred dollars ($500), whichever is greater, for the privilege to enter the property and conduct***[~~the amount of~~] the appraisal.

(b) ***Upon payment of the entry fee by the permittee or operator, an easement of necessity shall be recognized on behalf of the permittee or operator for the limited purposes of abating the violation and the operator or permittee shall be authorized to enter the property to undertake immediate action to abate the violation.***

(c) Following the effective date of the easement of necessity to abate the violation, the procedures set forth in subsection (1)(c) through (f) of this section shall apply. The entry fee shall be deducted from any subsequent payment deemed due the property owner or legal occupant as a result of the post-abatement appraisal or appraisals. If the entry fee exceeds the amount of all appraisals, the property owner or legal occupant shall be entitled to retain the entry fee in its entirety[~~When the easement takes effect, the property owner or legal occupant shall allow access for the permittee's or operator's certified real estate appraiser or other qualified appraiser to conduct the appraisal.~~

~~(4) Following the effective date of the easement of necessity, the following procedure shall be followed with respect to the appraisal of the damages to the property that will result from the violation, as abated, and those that are likely to occur, under this subsection:~~

~~(a) The permittee or operator shall have an appraiser on the site and have his or her appraisal completed and submitted to the property owner or legal occupant within seven (7) days of the entry of the appraiser on the property;~~

~~(b) The property owner or legal occupant shall accept or reject this appraisal within three (3) days of receipt of the completed appraisal;~~

~~(c) If the property owner or legal occupant rejects this appraisal, he or she may hire a certified real estate appraiser or other qualified appraiser to appraise the damages to the property, including loss of use, that will result from the violation, as abated, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation. Upon receipt of the invoice, the permittee or operator shall pay for the property owner's or legal occupant's appraisal up to the amount he or she paid for his or her own appraisal; and~~

~~(d) If the property owner or legal occupant has the appraisal done, he or she shall have it completed and provided to the permittee or operator within seven (7) days of receipt of the permittee's or operator's appraisal.~~

~~(5) (a) If the property owner or legal occupant has an appraisal done, and if, based on his or her appraisal and the permittee's or operator's appraisal, an agreement is not reached on the appraised damages, the permittee or operator shall pay the property owner or legal occupant the amount of the permittee's or operator's appraisal damages.~~

~~(b) If the property owner's or legal occupant's appraisal damages are for more than the permittee's or operator's, the permittee or operator shall pay the difference to the circuit clerk.~~

~~(c) The difference shall be placed in an interest bearing account in a bank until final resolution of the matter by agreement or court or jury judgment.~~

~~(d) If the property owner or legal occupant is granted award of some or all of the difference, he or she shall also receive the interest on that portion of the difference.~~

~~(6) If the property owner or legal occupant does not accept or reject the permittee's or operator's appraisal and offer of funds for damages, the operator or permittee shall pay the appraised damages to the circuit clerk within three (3) business days. These funds shall be placed in an interest-bearing account in a bank until resolution of the matter by agreement or court or jury judgment.~~

~~(7) In cases under subsection (2) of this section, when the procedures in subsections (4) and (5)(a) and (b) of this section, or subsections (4)(a) and (b) and (6) of this section, have been satisfied, the permittee or operator may enter the property to abate the violation.~~

~~(8) Nothing in this section shall affect any person's right for damages or injunctive relief~~].

HCR 190, A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife Conservation.

WHEREAS, the Task Force on Funding for Wildlife Conservation was authorized by the 1996 General Assembly and reauthorized in 1998, 2000, and 2002; and

WHEREAS, wildlife-related tourism is a strong economic factor in the Commonwealth; and

WHEREAS, a stable funding source is needed for fish and wildlife work which currently receives no general fund money; and

WHEREAS, important issues in this area will require the oversight and continued attention of this task force;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Task Force on Funding for Wildlife Conservation is reauthorized with 16 members to meet during the 2004 and 2005 interims. The Task Force shall convene not less than twice each year.

Section 2. The task force shall report its findings each year to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue before December 1, 2004 and December 1, 2005.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 202, A CONCURRENT RESOLUTION urging the U.S. Office of Surface Mining and the Kentucky Department for Natural Resources to advance the Reforestation Initiative, with the goal of planting and growing trees on uncompacted surface mine overburden.

WHEREAS, the Reforestation Initiative is made up of a working group of professionals from the Department for Surface Mining Reclamation and Enforcement, the University of Kentucky, the coal industry, and others; and

WHEREAS, the Reforestation Initiative is an effort to improve the way reclamation is conducted, with the objective to define the compaction best suited for the optimal growth of hardwood trees as appropriate; and

WHEREAS, surface mining regulatory agencies, overly concerned about mine site stability, have traditionally mandated over-compacted soils in areas where stability is not an issue; and

WHEREAS, excessive compaction impedes the maximum growth rate for trees; and

WHEREAS, research by the University of Kentucky and other institutions clearly proves that tree growth in uncompacted surface mine overburden significantly exceeds tree growth in lightly compacted overburden; and

WHEREAS, it is the legislative intent to educate regulatory agencies and the regulated community on the benefits of tree growth at mine sites with minimal or no compaction, and to reverse an almost 30-year-old mindset regarding compaction of mine overburden; and

WHEREAS, properly prepared, uncompacted, gently rolling reclaimed mine land absorbs large amounts of rainfall, releases retained water over a prolonged period of time,creates a carbon dioxide sink for greenhouse gases, improves wildlife habitat, and creates an access road grid; and

WHEREAS, properly prepared, uncompacted reclaimed mine land has been shown to yield native hardwood and other species of timber that grow at least twice as fast as the same species of timber grows in undisturbed forest; and

WHEREAS, it is clear that the Reforestation Initiative will make Kentucky's forest land more productive than ever, thus facilitating the growth of Kentucky's hardwood timber industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly strongly urges that the federal Office of Surface Mining and the Kentucky Department for Natural Resources encourage the use of uncompacted mine overburden when combined with the planting of hardwood trees, and to further consider Reforestation Initiative ideas regarding reclamation of abandoned mine land sites, and previously reclaimed mine sites.

Section 2. The General Assembly further strongly urges Congress to adopt legislation promoting the Reforestation Initiative.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the director of the U.S. Office of Surface Mining, to the commissioner of the Kentucky Department for Natural Resources, and to Kentucky's Congressional delegation.

The Committee on Local Government reported **HB 78**, with Committee Substitute attached thereto, and **HB 438** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 78, AN ACT relating to the provision of services by county interlocal agreement, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.460 is amended to read as follows:

(1) Beginning July 15, 1998, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars ($2,750) for each qualified police officer it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) ***Any eligible county government that has entered into a valid interlocal agreement with another county government, in accordance with KRS 65.210 to 65.300, for the purpose of providing law enforcement shall be entitled to receive annually a supplement of six hundred dollars ($600) for each qualified police officer it employs. This shall apply to sheriffs and deputy sheriffs of any counties that have entered into a valid interlocal agreement for the collection of taxes. An amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category, shall also be contributed. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The county shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. If the foundation program funds are insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.***

(3) Each qualified police officer, whose local government receives a supplement pursuant to ***subsections***[~~subsection~~] (1) ***and (2)*** of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(4)[~~(3)~~] (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.

Section 2. KRS 65.250 is amended to read as follows:

(1) Any such agreement shall specify the following:

(a) The duration of the agreement;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with a statement of the powers delegated thereto; provided such legal entity may be legally created;

(c) The purpose or purposes of such legal or administrative entity;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor; said agreement for financing the joint or cooperative undertaking shall include agreements relative to the respective responsibilities of the units of government involved for the payment of the employer's share involved in any pertinent pension plan or plans, if any, provided for by KRS 65.280;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) *For any agreement that provides for police or fire protection services, emergency medical services, or rescue services the agreement shall specify:*

1. The chain of command for units providing these services;

2. The method or methods of communication between jurisdictions and units providing these services; and

3. Any provisions for the purchase, storage, and transportation of any devices or equipment necessary for cross communication or the inter-operability of equipment between units of differing jurisdictions providing these services.

(g) Any other necessary and proper matters.

(2) In the event that the agreement does not establish a separate legal or administrative entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs (a), (c), (d), (e)*, (f)* and *(g)*[~~(f)~~] enumerated in subsection (1) of this section, contain the following:

(a) Provision for an administrator or joint board responsible for administering the joint or cooperative undertaking. In the event that a joint board is established, the public agencies party to the agreement shall be represented thereon;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

Section 3. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)*, (4)* and *(5)*[~~(4)~~] of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state[~~, except for interlocal agreements between cities, counties, charter counties, urban-county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government~~]. The Attorney General[~~ or the Department for Local Government~~] shall approve any agreement submitted to *him*[~~them~~] under this subsection unless *he finds*[~~they find~~] that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General[~~ or the Department for Local Government~~] shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) *Except as provided in subsections (4) and (5) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs and special districts upon approval of the fiscal court, pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement. The Department for Local Government shall notify the appropriate agencies within the Transportation Cabinet of any valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries for the purposes of receiving funds in accordance with Section 11 of this Act.*

(4) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the

construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(5)[~~(4)~~] Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 4. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars ($2,750) for each qualified professional firefighter it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified professional firefighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) ***Any eligible county government that has entered into a valid interlocal agreement with another county government, in accordance with KRS 65.210 to 65.300, for the purpose of providing fire protection services shall be entitled to receive annually a supplement of six hundred dollars ($600) for each qualified firefighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The county shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. If the foundation program funds are insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.***

(3) Each qualified professional firefighter, whose local government receives a supplement pursuant to ***subsections***[~~subsection~~] (1) ***and (2)*** of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary.

Section 5. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection ***(4)***[~~(3)~~] of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1)

operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) ***In counties that have entered into a valid interlocal agreement, in accordance with KRS 65.210 to KRS 65.300, concerning the provision of fire protection services across the participating county's boundaries, the Commission shall allot on an annual basis an additional sum of one thousand six hundred fifty dollars ($1,650) to qualifying volunteer fire departments in the following categories:***

(a) Fire protection districts organized pursuant to KRS Chapter 75;

(b) County districts established under the authority of KRS 67.083; and

(c) Volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273.

The volunteer fire departments enumerated in paragraphs (a) to (c) of this subsection must be subjects of the interlocal agreement for the provision of fire protection services to be eligible for this aid.

(4) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection ***(5)***[~~(4)~~] of this section and shall comply with state laws applicable to capital construction projects.

(5)[~~(4)~~] Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary. ***The Commission shall give preference to those departments that are subjects of valid interlocal agreements concerning the provision of fire protection services across county boundaries.***

(6)[~~(5)~~] Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(7)[~~(6)~~] Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(8)[~~(7)~~] The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(9)[~~(8)~~] The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(10)[~~(9)~~] Moneys withheld pursuant to subsection ***(9)***[~~(8)~~] of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(11)[~~(10)~~] If a volunteer fire department has met all of the requirements of subsection *(10)*[~~(9)~~] of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less. ***For volunteer fire departments that are recipients of supplemental aid granted under subsection (3) of this section the commission may authorize a reimbursement of equipment losses not exceeding twelve thousand dollars ($12,000) or the actual amount of the loss, whichever is less.***

(12)[~~(11)~~] Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(13)[~~(12)~~] No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(14)[~~(13)~~] The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(15)[~~(14)~~] There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection *(5)*[~~(4)~~] of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 6. KRS 311A.155 is amended to read as follows:

(1) There shall be an emergency medical services grant program to provide funding to each county for the direct operation of emergency medical services, including but not limited to purchase or lease of ambulances or equipment. ***The board shall grant funding preferences to counties that enter into valid interlocal agreements, in accordance with KRS 65.210 to 65.300, for the provision of emergency services across participating county boundaries.*** Funds available shall not be used to fund personnel or consultant salaries.

(2) Funds appropriated to or received by the emergency medical services grant program shall be placed in a trust and agency account in the State Treasury and shall not lapse.

(3) The board shall administer the emergency medical services grant program and may promulgate administrative regulations, which shall include but not be limited to funding criteria necessary for its implementation and operation.

(4) Twenty percent (20%) of the funds received each fiscal year for the grant program may be withheld from general distribution and shall be distributed for emergency purposes only.

(5) Grants may be made each fiscal year to each county fiscal court determined to be eligible by the board for distribution to public ambulance services operated by or for the county. A county may keep funds appropriated to ***it***[~~them~~] for a period of two (2) years, if desired, for expenditure for authorized purposes. At the end of two (2) years from the date of the receipt of the grant, the county shall return any funds remaining unexpended to the emergency medical services grant fund. Each expenditure made by the fiscal court from grant funds provided to the county shall be documented, with appropriate receipts or other documents, and a copy of each receipt or other document shall be provided to the board to verify that the expenditure was proper. The board shall require reimbursement to the emergency medical services fund by the county, with interest at a rate of twenty percent (20%) annually, for any funds expended for an unauthorized purpose. If the county fails or refuses to reimburse the fund, the board shall notify the Attorney General, who shall seek appropriate civil and criminal remedies.

(6) The board shall, annually, by January 1, promulgate administrative regulations specifying items of equipment and other authorized expenditures for the upcoming fiscal year. No funds shall be provided to the county until after the start of the fiscal year.

(7) The board may, in the event of a documented situation which the board considers to be an emergency and beyond the

ability of the county to pay, provide emergency funding to the fiscal court for an ambulance or authorized equipment which has been damaged or destroyed. Normal replacement of an ambulance or equipment shall not be considered an emergency. The amount of funding that may be provided by the board shall not exceed ten thousand dollars ($10,000). ***In counties that have entered into valid interlocal agreements for the provision of emergency services across participating county boundaries the emergency funding to the fiscal courts for an ambulance or authorized equipment which has been damaged or destroyed, shall not exceed twelve thousand dollars ($12,000).*** Only one (1) emergency funding request shall be granted for any county in each fiscal year. The amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year. ***In counties that have entered into valid interlocal agreements for the provision of emergency services across participating county boundaries, eighty percent (80%) of the amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year.***

Section 7. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive of each county, the mayor of each city, consolidated local government, or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) Except in a county containing a consolidated local government, in lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support ***at the minimum*** the joint appointment of a single local director in each territorial county of the Commonwealth. ***The division shall encourage and support the establishment of voluntary, regional emergency service districts. These regional districts are to be developed through the adoption of valid interlocal agreements between counties, in accordance with KRS 65.210 to 65.300. These agreements may involve the appointment of a regional director for the service area established.*** The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsection (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and to attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government, or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, urban-county government, or charter county government shall not seek reimbursement from the division for the local

director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

Section 8. KRS 39C.020 is amended to read as follows:

Supplementary state funds appropriated to the division shall be allocated by the division to local emergency management agencies on a reimbursement basis in amounts not to exceed fifty percent (50%) of the total local funds expended by the local agencies in any given year for the institution, administration, or support of the comprehensive emergency management programs of the city, county, urban-county government or charter county government. ***Supplementary state funds shall be allocated by the division to regional emergency management districts established by valid interlocal agreement on a reimbursement basis in amounts not to exceed sixty percent (60%) of the total expended by the regional agency in any given year for the institution, administration, or support of the comprehensive emergency management programs of the regional service district.***

Section 9. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training dog wardens and animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county ***or several counties jointly by entering into a valid interlocal agreement, in accordance with KRS 65.210 to 65.300 for the provision of an animal control and care program***:

(a) ***Employ***[~~Employs~~] a dog warden or an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) ***Maintain***[~~Maintains~~] a dog pound or animal shelter, or contracts with an adjoining county, to provide services that:

1. Segregate male and female animals in runs and holding areas;
2. Provide separate runs or holding areas for ill or injured animals;
3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit or scratched a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;
4. Provide holding areas with protection from the weather, including heated quarters during cold weather;
5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material or a minimum of three (3) inches of gravel;
6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;
7. Employ euthanasia methods recommended by the American Veterinary Medical Association; and

8. Provide other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner.

(4) Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of dog wardens or other personnel. ***The Commissioner shall grant preferences to those animal control and care programs established by valid interlocal agreement between counties for the provision of these services.*** Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

(6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of this section.

Section 10. KRS 224.43-505 is amended to read as follows:

(1) A trust fund known as the Kentucky pride fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in KRS 224.43-500. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) The cabinet shall administer the Kentucky pride fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:

(a) Five million dollars ($5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:

1. The cabinet may use up to two and one-half million dollars ($2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and facilities. The cabinet shall present the implementation plan to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2003. Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.

2. The cabinet shall suspend until July 2006 enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

3. The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2003, a plan for state assumption of responsibility for closure and remedial obligations of formerly permitted city and county municipal solid waste landfills that ceased accepting waste prior to July 1, 1992, including recommendations on funding such obligations.

4. The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2004, a plan for closure and remediation of all identified abandoned solid waste sites and facilities, including recommendations on funding such obligations.

5. Two and one-half million dollars ($2,500,000) per year shall be used to pay debt service on bonds to be sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars ($25,000,000), with all proceeds from the issuance and sale of these bonds to be deposited in the Kentucky pride fund established in this section and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, or additional debt service.

(b) The interest on all moneys deposited into the fund, including unused debt services, shall be distributed annually in an amount not to exceed one million dollars ($1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan;

(c) The remaining balance of the funds from the environmental remediation fee established in KRS 224.43-500 shall be utilized by the cabinet for the elimination of illegal open dumps in the counties of the Commonwealth, subject to the following provisions:

1. The cabinet shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks;

2. During the first funding year, the cabinet shall use the balance of funds from the environmental remediation fee to reimburse counties semiannually for seventy-five percent (75%) of the costs relating to the cleanup of illegal open dumps it has identified as presenting the most significant public health and environmental risks;

3. After the first funding year, the cabinet shall reimburse counties semiannually for seventy-five percent (75%) of the direct expense of eliminating illegal open dumps providing they:

a. Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;

b. Employ a solid waste coordinator with enforcement powers;

c. Remain in compliance with an approved solid waste management plan under this chapter;

d. Enter into agreement with the cabinet to eliminate all identified illegal open dumps containing solid waste;

e. Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and

f. Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.

4. ***After the first funding year, the cabinet shall reimburse counties semiannually for one hundred percent (100%) of the direct expense of eliminating illegal open dumps providing they have met all the conditions established in subdivisions a. to f. of subparagraph 3. of this paragraph and that have entered into valid interlocal agreements for the provision of services across county boundaries for any of the following:***

a. Solid waste collection;

b. Solid waste disposal; or

c. Recycling services.

5. Counties that meet the requirements set out above in ***subparagraphs***~~[subparagraph]~~ 3. ***and 4.*** of this paragraph shall be provided the following incentives and rewards by the cabinet:

a. Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and

b. Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps; and

6.~~[5.]~~ The cabinet may waive the matching requirement of subsection (3) of this section for illegal dump cleanup within a county during any year in which the county demonstrates that it has enacted and enforced an ordinance mandating collection by all households and businesses in a universal collection program.

(d) Two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010(13)(g) and two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed semiannually for anti-litter control programs with distributions to be made as follows:

1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;

2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;

3. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on the

county's population as a percentage of the total population of the Commonwealth at the time of distribution;

4. Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of that city's population to the population of the county, to be used for the purpose of litter cleanup on public roads within city boundaries; and

5. Moneys received by counties and cities pursuant to this subsection shall be used to meet obligations with respect to the litter cleanup of public roads required by the provisions of KRS 224.43-345.

(3) Prior to providing the financial assistance provided under paragraphs (c) and (d) of subsection (2) of this section, the cabinet shall require a county to provide a match of twenty-five percent (25%) of the total amount of the financial assistance to be provided by the cabinet. *The cabinet shall require a county that has entered into a valid interlocal agreement for the provision across county boundaries of solid waste collection, solid waste disposal, or recycling services to provide a match of twenty percent (20%) of the total amount of the financial assistance to be provided by the cabinet. These matches*[~~The match~~] provided by the county may be in-kind.

(4) The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars ($750,000) annually. The cabinet shall report to the General Assembly at its regular session in 2003 regarding costs and expenditures relating to the provisions of this section.

Section 11. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

(4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660 and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation Center as established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed one hundred ninety thousand dollars ($190,000) for any fiscal year.

(5) On or after July 1, 2004, one percent (1%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660 and 234.320 shall be set aside and appropriated for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement, in accordance with KRS 65.210 to 65.300, for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries. Counties shall not be eligible for these funds for the purpose of a single project of road and bridge construction, reconstruction, and maintenance. Counties shall be eligible for funding in a given fiscal year, if they have entered into a valid interlocal agreement by July 1 of that fiscal year.

(6) The cabinet shall allocate the funds set aside and appropriated in subsection (5) of this section to counties that have entered into valid multiyear interlocal agreements for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries and not for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, in accordance with the following formula:

(a) Twenty percent (20%) shall be apportioned equally among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries;

(b) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the rural population of each county within the interlocal agreement bears to the total rural population of the counties that have entered into the interlocal agreement in the Commonwealth of Kentucky. "Rural population" as used in this paragraph means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census;

(c) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across

county boundaries on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of these roads for the counties that have entered into the interlocal agreement in the Commonwealth of Kentucky; and

(d) Forty percent (40%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the square-mile rural area of each county bears to the total square-mile rural area for the counties that have entered into the interlocal agreement in the Commonwealth of Kentucky. "Rural area" as used in this paragraph means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.

Participants in a valid multiyear interlocal agreement for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries and not for the purpose of a single projection of road and bridge construction, reconstruction, and maintenance, shall be eligible for receipt of these funds for a period of four (4) years after the approval of the interlocal agreement. No county shall be eligible for receipt of these funds more than once. The cabinet shall disburse these funds to eligible counties in twelve (12) equal, monthly payments in a fiscal year. Participants in a valid multiyear interlocal agreement for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries and not for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, shall expend these funds within two (2) years of their receipt. Funds that have not been expended within two (2) years shall lapse back to the cabinet for allocation to further the purposes of subsection (5) of this section. Any funds designated within this subsection that remain unallocated at the end of a fiscal year shall lapse to the State Road Fund.

Section 12. KRS 75.440 is amended to read as follows:

(1) Only fire departments recognized and certified by the commission shall be eligible to receive volunteer fire department aid pursuant to KRS 95A.262(2), to receive low interest loans pursuant to KRS 95A.262*(15)*[~~(14)~~], or to participate in the Professional Firefighters Foundation Program, pursuant to KRS 95A.200 to 95A.290.

(2) A fire department created pursuant to KRS Chapter 273 which has been recognized and certified by the commission shall have the following rights and responsibilities:

(a) Designation as the only fire department authorized to protect property within its geographic area as filed with the commission and the county clerk, but the department may seek the assistance of other departments, and may make reciprocal aid contracts pursuant to KRS 75.050;

(b) Authority to secure water immediately for purposes of fighting a fire from any source, public or private. Upon request, the department shall compensate the owner in a reasonable amount for water used within six (6) months of use; and

(c) All rights identified in the Kentucky Revised Statutes for fire departments.

(3) The officers and firefighters, whether paid or unpaid, of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall select a chief. The appointment of the chief shall be subject to the approval of the governing board of the department. The chief shall establish a chain of command within the department. The chief, or the highest person available in the chain of command if the chief cannot be present, shall, subject to all state statutes as applicable, have the following rights and responsibilities:

(a) Authority to order the immediate evacuation of areas endangered by fire, a hazardous materials incident, or other impending disaster that constitutes a threat to life or property;

(b) Authority to be in charge of all fire ground operations at the scene of a fire or other emergency;

(c) Control of all department personnel while on duty; and

(d) Control of all equipment of the department.

(4) The chief of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall perform necessary actions to maintain recognition and certification of the department by the commission.

Section 13. Whereas it is necessary to expedite the administration of the provisions of this Act to conform with fiscal year requirements, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 78** is as follows:

HB 78, AN ACT relating to the provision of services by county interlocal agreement, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.250 is amended to read as follows:

(1) Any such agreement shall specify the following:

(a) The duration of the agreement;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with a statement of the powers delegated thereto; provided such legal entity may be legally created;

(c) The purpose or purposes of such legal or administrative entity;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor; said agreement for financing the joint or cooperative undertaking shall include agreements relative to the respective responsibilities of the units of government involved for the payment of the employer's share involved in any pertinent pension plan or plans, if any, provided for by KRS 65.280;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) ***For any agreement that provides for police or fire protection services, emergency medical services, or rescue services the agreement shall specify:***

1. The chain of command for units providing these services;

2. The method or methods of communication between jurisdictions and units providing these services; and

3. Any provisions for the purchase, storage, and transportation of any devices or equipment necessary for cross communication or the inter-operability of equipment between units of differing jurisdictions providing these services.

(g) Any other necessary and proper matters.

(2) In the event that the agreement does not establish a separate legal or administrative entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs (a), (c), (d), (e)***, (f)*** and ***(g)***[~~(f)~~] enumerated in subsection (1) of this section, contain the following:

(a) Provision for an administrator or joint board responsible for administering the joint or cooperative undertaking. In the event that a joint board is established, the public agencies party to the agreement shall be represented thereon;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

Section 2. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)***, (4)*** and ***(5)***[~~(4)~~] of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state[~~, except for interlocal agreements between cities, counties, charter counties, urban-county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government~~]. The Attorney General[~~ or the Department for Local Government~~] shall approve any agreement submitted to ***him***[~~them~~] under this subsection unless ***he finds***[~~they find~~] that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General[~~ or the Department for Local Government~~] shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) ***Except as provided in subsections (4) and (5) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs and special districts upon approval of the fiscal court, pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement. The Department for Local Government shall notify the appropriate agencies within the Transportation Cabinet of any valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries for the purposes of receiving funds in accordance with Section 11 of this Act.***

(4) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(5)[~~(4)~~] Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 3. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection ***(4)***[~~(3)~~] of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) ***In counties that have entered into a valid interlocal agreement, in accordance with KRS 65.210 to KRS 65.300, concerning the provision of fire protection services across the participating county's boundaries, the Commission shall allot on an annual basis an additional sum of one thousand six hundred fifty dollars ($1,650) to qualifying volunteer fire departments in the following categories:***

(a) Fire protection districts organized pursuant to KRS Chapter 75;

(b) County districts established under the authority of KRS 67.083; and

(c) Volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273.

The volunteer fire departments enumerated in paragraphs (a) to (c) of this subsection must be subjects of the interlocal agreement for the provision of fire protection services to be eligible for this aid.

(4) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection ***(5)***[~~(4)~~] of this section and shall comply with state laws applicable to capital construction projects.

(5)[~~(4)~~] Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary. ***The Commission shall give preference to those departments that are subjects of valid interlocal agreements concerning the provision of fire protection services across county boundaries.***

(6)[~~(5)~~] Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(7)[~~(6)~~] Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(8)[~~(7)~~] The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(9)[~~(8)~~] The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(10)[~~(9)~~] Moneys withheld pursuant to subsection *(9)*[~~(8)~~] of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(11)[~~(10)~~] If a volunteer fire department has met all of the requirements of subsection *(10)*[~~(9)~~] of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less. ***For volunteer fire departments that are recipients of supplemental aid granted under subsection (3) of this section the commission may authorize a reimbursement of equipment losses not exceeding twelve thousand dollars ($12,000) or the actual amount of the loss, whichever is less.***

(12)[~~(11)~~] Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(13)[~~(12)~~] No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(14)[~~(13)~~] The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(15)[~~(14)~~] There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection *(5)*[~~(4)~~] of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 4. KRS 311A.155 is amended to read as follows:

(1) There shall be an emergency medical services grant program to provide funding to each county for the direct operation of emergency medical services, including but not limited to purchase or lease of ambulances or equipment. ***The board shall grant funding preferences to counties that enter into valid interlocal agreements, in accordance with KRS 65.210 to 65.300, for the provision of emergency services across participating county boundaries.*** Funds available shall not be used to fund personnel or consultant salaries.

(2) Funds appropriated to or received by the emergency medical services grant program shall be placed in a trust and agency account in the State Treasury and shall not lapse.

(3) The board shall administer the emergency medical services grant program and may promulgate administrative regulations, which shall include but not be limited to funding criteria necessary for its implementation and operation.

(4) Twenty percent (20%) of the funds received each fiscal year for the grant program may be withheld from general distribution and shall be distributed for emergency purposes only.

(5) Grants may be made each fiscal year to each county fiscal court determined to be eligible by the board for distribution to public ambulance services operated by or for the county. A county may keep funds appropriated to ***it***[~~them~~] for a period of two (2) years, if desired, for expenditure for authorized purposes. At the end of two (2) years from the date of the receipt of the grant, the county shall return any funds remaining unexpended to the emergency medical services grant fund. Each expenditure made by the fiscal court from grant funds provided to the county shall be documented, with appropriate receipts or other documents, and a copy of each receipt or other document shall be provided to the board to verify that the expenditure was proper. The board shall require reimbursement to the emergency medical services fund by the county, with interest at a rate of twenty percent (20%) annually, for any funds expended for an unauthorized purpose. If the county fails or refuses to reimburse the fund, the board shall notify the Attorney General, who shall seek appropriate civil and criminal remedies.

(6) The board shall, annually, by January 1, promulgate administrative regulations specifying items of equipment and other authorized expenditures for the upcoming fiscal year. No funds shall be provided to the county until after the start of the fiscal year.

(7) The board may, in the event of a documented situation which the board considers to be an emergency and beyond the ability of the county to pay, provide emergency funding to the fiscal court for an ambulance or authorized equipment which has been damaged or destroyed. Normal replacement of an ambulance or equipment shall not be considered an emergency. The amount of funding that may be provided by the board shall not exceed ten thousand dollars ($10,000). ***In counties that have entered into valid interlocal agreements for the provision of emergency services across participating county boundaries the emergency funding to the fiscal courts for an ambulance or authorized equipment which has been damaged or destroyed, shall not exceed twelve thousand dollars ($12,000).*** Only one (1) emergency funding request shall be granted for any county in each fiscal year. The amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year. ***In counties that have entered into valid interlocal agreements for the provision of emergency services across participating county boundaries, eighty percent (80%) of the amount of the emergency grant to the county shall be deducted from the county's grant for the next fiscal year.***

Section 5. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive of each county, the mayor of each city, consolidated local government, or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) Except in a county containing a consolidated local government, in lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support ***at the minimum*** the joint appointment of a single local director in each territorial county of the Commonwealth. ***The division shall encourage and support the establishment of voluntary, regional emergency service districts. These regional districts are to be developed through the adoption of valid interlocal agreements between counties, in accordance with KRS 65.210 to 65.300. These agreements may involve the appointment of a regional director for the service area established.*** The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsection (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and to attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government, or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

Section 6. KRS 39C.020 is amended to read as follows:

Supplementary state funds appropriated to the division shall be allocated by the division to local emergency management agencies on a reimbursement basis in amounts not to exceed fifty percent (50%) of the total local funds expended by the local agencies in any given year for the institution, administration, or support of the comprehensive emergency management programs of the city, county, urban-county government or charter county government. ***Supplementary state funds shall be allocated by the division to regional emergency management districts established by valid interlocal agreement on a reimbursement basis in amounts not to exceed sixty percent (60%) of the total expended by the regional agency in any given year for the institution, administration, or support of the comprehensive emergency management programs of the regional service district.***

Section 7. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training dog wardens and animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control

Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county ***or several counties jointly by entering into a valid interlocal agreement, in accordance with KRS 65.210 to 65.300 for the provision of an animal control and care program***:

(a) ***Employ***[~~Employs~~] a dog warden or an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) ***Maintain***[~~Maintains~~] a dog pound or animal shelter, or contracts with an adjoining county, to provide services that:

1. Segregate male and female animals in runs and holding areas;
2. Provide separate runs or holding areas for ill or injured animals;
3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit or scratched a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;
4. Provide holding areas with protection from the weather, including heated quarters during cold weather;
5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material or a minimum of three (3) inches of gravel;
6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;
7. Employ euthanasia methods recommended by the American Veterinary Medical Association; and
8. Provide other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner.

(4) Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of dog wardens or other personnel. ***The Commissioner shall grant preferences to those animal control and care programs established by valid interlocal agreement between counties for the provision of these services.*** Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

(6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of this section.

Section 8. KRS 224.43-505 is amended to read as follows:

(1) A trust fund known as the Kentucky pride fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in KRS 224.43-500. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) The cabinet shall administer the Kentucky pride fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:

(a) Five million dollars ($5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:

1. The cabinet may use up to two and one-half million dollars ($2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites

or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and facilities. The cabinet shall present the implementation plan to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2003. Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.

2. The cabinet shall suspend until July 2006 enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

3. The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2003, a plan for state assumption of responsibility for closure and remedial obligations of formerly permitted city and county municipal solid waste landfills that ceased accepting waste prior to July 1, 1992, including recommendations on funding such obligations.

4. The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2004, a plan for closure and remediation of all identified abandoned solid waste sites and facilities, including recommendations on funding such obligations.

5. Two and one-half million dollars ($2,500,000) per year shall be used to pay debt service on bonds to be sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars ($25,000,000), with all proceeds from the issuance and sale of these bonds to be deposited in the Kentucky pride fund established in this section and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, or additional debt service.

(b) The interest on all moneys deposited into the fund, including unused debt services, shall be distributed annually in an amount not to exceed one million dollars ($1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan;

(c) The remaining balance of the funds from the environmental remediation fee established in KRS 224.43-500 shall be utilized by the cabinet for the elimination of illegal open dumps in the counties of the Commonwealth, subject to the following provisions:

1. The cabinet shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks;

2. During the first funding year, the cabinet shall use the balance of funds from the environmental remediation fee to reimburse counties semiannually for seventy-five percent (75%) of the costs relating to the cleanup of illegal open dumps it has identified as presenting the most significant public health and environmental risks;

3. After the first funding year, the cabinet shall reimburse counties semiannually for seventy-five percent (75%) of the direct expense of eliminating illegal open dumps providing they:

a. Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;

b. Employ a solid waste coordinator with enforcement powers;

c. Remain in compliance with an approved solid waste management plan under this chapter;

d. Enter into agreement with the cabinet to eliminate all identified illegal open dumps containing solid waste;

e. Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and

f. Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.

4. ***After the first funding year, the cabinet shall reimburse counties semiannually for one hundred percent (100%) of the direct expense of eliminating illegal open dumps providing they have met all the conditions established in subdivisions a. to f. of subparagraph 3. of this paragraph and that have entered into valid interlocal agreements for the provision of services across county boundaries for any of the following:***

a. Solid waste collection;

b. Solid waste disposal; or

c. Recycling services.

5. Counties that meet the requirements set out above in *subparagraphs*[~~subparagraph~~] 3. *and 4.* of this paragraph shall be provided the following incentives and rewards by the cabinet:

a. Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and

b. Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps; and

6.[~~5.~~] The cabinet may waive the matching requirement of subsection (3) of this section for illegal dump cleanup within a county during any year in which the county demonstrates that it has enacted and enforced an ordinance mandating collection by all households and businesses in a universal collection program.

(d) Two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010(13)(g) and two and one-half million dollars ($2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed semiannually for anti-litter control programs with distributions to be made as follows:

1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;

2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;

3. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on the county's population as a percentage of the total population of the Commonwealth at the time of distribution;

4. Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of that city's population to the population of the county, to be used for the purpose of litter cleanup on public roads within city boundaries; and

5. Moneys received by counties and cities pursuant to this subsection shall be used to meet obligations with respect to the litter cleanup of public roads required by the provisions of KRS 224.43-345.

(3) Prior to providing the financial assistance provided under paragraphs (c) and (d) of subsection (2) of this section, the cabinet shall require a county to provide a match of twenty-five percent (25%) of the total amount of the financial assistance to be provided by the cabinet. *The cabinet shall require a county that has entered into a valid interlocal agreement for the provision across county boundaries of solid waste collection, solid waste disposal, or recycling services to provide a match of twenty percent (20%) of the total amount of the financial assistance to be provided by the cabinet. These matches*[~~The match~~] provided by the county may be in-kind.

(4) The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars ($750,000) annually. The cabinet shall report to the General Assembly at its regular session in 2003 regarding costs and expenditures relating to the provisions of this section.

Section 9. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

(4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660 and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation

Center as established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed one hundred ninety thousand dollars ($190,000) for any fiscal year.

(5) On or after July 1, 2004, one-fifth of one percent (1/5%) of all funds arising from the imposition of taxes provided by KRS 138.220, subsections (1) and (2) of KRS 138.660, and 234.320 shall be set aside and appropriated for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement, in accordance with KRS 65.210 to 65.300, for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries. Counties shall not be eligible for these funds for the purpose of a single project of road and bridge construction, reconstruction, and maintenance. Counties shall be eligible for funding in a given fiscal year, if they have entered into a valid interlocal agreement by July 1 of that fiscal year.

(6) The cabinet shall allocate the funds set aside and appropriated in subsection (5) of this section to counties that have entered into valid multiyear interlocal agreements for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries and not for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, in accordance with the following formula:

- *(a) Twenty percent (20%) shall be apportioned equally among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries;*
- *(b) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the rural population of each county within the interlocal agreement bears to the total rural population of the counties that have entered into the interlocal agreement in the Commonwealth of Kentucky. "Rural population" as used in this paragraph means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census;*
- *(c) Twenty percent (20%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of these roads for the counties that have entered into the interlocal agreement in the Commonwealth of Kentucky; and*
- *(d) Forty percent (40%) shall be apportioned among the counties that have entered into valid interlocal agreements for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries on the basis of the ratio which the square-mile rural area of each county bears to the total square-mile rural area for the counties that have entered into the interlocal agreement in the Commonwealth of Kentucky. "Rural area" as used in this paragraph means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.*

Participants in a valid multiyear interlocal agreement for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries and not for the purpose of a single projection of road and bridge construction, reconstruction, and maintenance, shall be eligible for receipt of these funds for a period of four (4) years after the approval of the interlocal agreement. No county shall be eligible for receipt of these funds more than once. The cabinet shall disburse these funds to eligible counties in twelve (12) equal, monthly payments in a fiscal year. Participants in a valid multiyear interlocal agreement for the general provision of road and bridge construction, reconstruction, and maintenance services across county boundaries and not for the purpose of a single project of road and bridge construction, reconstruction, and maintenance, shall expend these funds within two (2) years of their receipt. Funds that have not been expended within two (2) years shall lapse back to the cabinet for allocation to further the purposes of subsection (5) of this section. Any funds designated within this subsection that remain unallocated at the end of a fiscal year shall lapse to the State Road Fund.

Section 10. KRS 75.440 is amended to read as follows:

(1) Only fire departments recognized and certified by the commission shall be eligible to receive volunteer fire department aid pursuant to KRS 95A.262(2), to receive low interest loans pursuant to KRS 95A.262*(15)*[~~(14)~~], or to participate in the Professional Firefighters Foundation Program, pursuant to KRS 95A.200 to 95A.290.

(2) A fire department created pursuant to KRS Chapter 273 which has been recognized and certified by the commission shall have the following rights and responsibilities:

- (a) Designation as the only fire department authorized to protect property within its geographic area as filed with the commission and the county clerk, but the department may seek the assistance of other departments, and may make reciprocal aid contracts pursuant to KRS 75.050;
- (b) Authority to secure water immediately for purposes of fighting a fire from any source, public or private. Upon request, the department shall compensate the owner in a reasonable amount for water used within six (6) months of

use; and

(c) All rights identified in the Kentucky Revised Statutes for fire departments.

(3) The officers and firefighters, whether paid or unpaid, of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall select a chief. The appointment of the chief shall be subject to the approval of the governing board of the department. The chief shall establish a chain of command within the department. The chief, or the highest person available in the chain of command if the chief cannot be present, shall, subject to all state statutes as applicable, have the following rights and responsibilities:

(a) Authority to order the immediate evacuation of areas endangered by fire, a hazardous materials incident, or other impending disaster that constitutes a threat to life or property;

(b) Authority to be in charge of all fire ground operations at the scene of a fire or other emergency;

(c) Control of all department personnel while on duty; and

(d) Control of all equipment of the department.

(4) The chief of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall perform necessary actions to maintain recognition and certification of the department by the commission.

Section 11. The Department for Criminal Justice Training shall study and report on the effect on the Kentucky Law Enforcement Foundation Program fund of providing incentive pay to sheriffs' departments and county police departments that enter into interlocal agreements for the provision of law enforcement across county boundaries or, in the case of sheriffs' departments, the provision of tax collection services across county boundaries. The department shall examine the cost of:

(1) A five percent (5%);

(2) A ten percent (10%);

(3) A fifteen percent (15%); and

(4) A twenty percent (20%);

addition to the supplemental pay provided by Kentucky Law Enforcement Foundation Program fund to participating departments and peace officers. The department shall examine a range of participation levels by county police departments and sheriffs' departments in a supplement program for the provision of law enforcement or tax collection services across county boundaries and indicate which level of participation that the Department for Criminal Justice Training feels is the most likely level of participation in such a supplement program. The department shall also provide a justification for its determination of the most likely level of participation. The department shall project the costs of the varying levels of supplement and participation from Fiscal Year 2004-2005 through Fiscal Year 2007-2008. The department shall project funds available to the Kentucky Law Enforcement Foundation Program fund for Fiscal Year 2004-2005 through Fiscal Year 2007-2008 if at all possible, and match these proposed fund levels versus the levels of cost estimated for a supplement program for the provision of law enforcement or tax collection services across county boundaries. Lastly, the department shall examine what, if any, insurance premium surcharge increases would be necessary to fund a supplement program for the provision of law enforcement or tax collection services across county boundaries, for a given level of participation in the program and a given level of supplemental pay. The Department for Criminal Justice Training shall submit its findings to the Legislative Research Commission by September 1, 2004.

Section 12. The Commission on Fire Protection Personnel Standards and Education shall study and report the effect on the Firefighters Foundation Program fund of providing incentive pay to county professional fire departments that enter into interlocal agreements for the provision of fire protection services across county boundaries. The commission shall examine the cost of:

(1) A five percent (5%);

(2) A ten percent (10%);

(3) A fifteen percent (15%); and

(4) A twenty percent (20%);

addition to the supplemental pay provided by Firefighters Foundation Program fund to participating county professional fire departments. The commission shall examine a range of participation levels by county professional fire departments in a supplement program for the provision of fire protection services across county boundaries and indicate which level of participation the Commission on Fire Protection Personnel Standards and Education feels is the most likely level of participation in such a supplement program. The commission shall also provide a justification for its determination of the most likely level of participation. The commission shall project the costs of the varying levels of supplement and participation from Fiscal Year 2004-2005 through Fiscal Year 2007-2008. The commission shall project funds available to the Firefighters Foundation Program fund for Fiscal Year 2004-2005 through Fiscal Year 2007-2008 if at all possible, and match these proposed fund levels versus the levels of cost estimated for a supplement program for the provision of fire protection services across county boundaries. Lastly, the commission shall examine what, if any, insurance premium surcharge increases would be necessary to fund a supplement program for the provision of fire protection services across county boundaries, for a given level of participation in the program and a given level of supplemental pay. The Commission on Fire Protection Personnel Standards and Education shall submit its findings to the Legislative Research Commission by September 1, 2004.

Section 13. Whereas it is necessary to expedite the administration of the provisions of this Act to conform with fiscal year requirements, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 438, AN ACT relating to the sale or other disposition of city or county property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

(1) A city may sell or otherwise dispose of any of its real or personal property.

(2) Before selling or otherwise disposing of any real or personal property, the city shall make a written determination setting forth and fully describing:

- ***(a) The real or personal property;***
- ***(b) Its intended use at the time of acquisition;***
- ***(c) The reasons why it is in the public interest to dispose of it; and***
- ***(d) The method of disposition to be used.***

(3) Real or personal property may be:

- ***(a) Transferred, with or without compensation, to another governmental agency;***
- ***(b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);***
- ***(c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b); or***
- ***(d) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4).***

(4) If a city receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the city. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.

(5) Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the city.

Section 2. KRS 67.0802 is amended to read as follows:

(1) A county may sell or otherwise dispose of any of its real or personal property.

(2) Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:

- (a) The real or personal property;
- (b) Its intended use at the time of acquisition;
- (c) The reasons why it is in the public interest to dispose of it; and
- (d) The method of disposition to be used.

(3) Real or personal property may be:

- (a) Transferred, with or without compensation, to another governmental agency***;***~~[.]~~
- (b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);
- (c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b); or
- (d) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4).

(4) If a county receives no bids for the real or personal property, either at public ***or electronic*** auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.

(5) Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the county.

The Committee on Appropriations and Revenue reported **HB 413, HB 434**, with Committee Substitutes attached thereto, **HB 435**, and **HB 436**, with Committee Substitute and Committee Amendment attached thereto with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 434** is as follows:

HB 434, AN ACT relating to retired teachers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

  (a) Local boards of education;

  (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

  (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

  (d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

  (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

  (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

  (g) ***Employees of the Council on Postsecondary Education who were employees of*** the Department for Adult Education and Literacy ***and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600***[~~, except that the commissioner shall not be a member~~];

  (h) The Department for Technical Education, except that the commissioner shall not be a member;

  (i) The Department of Vocational Rehabilitation;

  (j) The Kentucky Educational Collaborative for State Agency Children;

  (k) The Governor's Scholars Program;

  (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

  (m) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

  (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky

Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the Cabinet for Workforce Development and the commissioners of the Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS ***158.6455 or*** 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers'

Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the ***most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance***~~[twelve (12) months immediately preceding the member's effective retirement date]~~, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 2. KRS 161.260 is amended to read as follows:

An election shall be held on or before June 1 of each year to elect trustees. The trustees to be elected each year shall depend upon the respective terms of the trustees elected under Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 7 and Acts 1940, Ch. 192, paragraph 7a, and KRS 161.250. Each trustee shall assume office on July 1 following his election and shall serve for a term of four (4) years. The elections shall be conducted by ballot under the supervision of the chief state school officer. Each person who is a contributing member ***as a result of full-time employment in a position covered by the retirement system*** or ***who is*** an annuitant of the retirement system shall have the right to vote. ***Each person who is a contributing member as a result of part-time or substitute employment in a position covered by the retirement system shall be permitted to vote as provided in Section 17 of this Act.*** Nominations for trustees shall be made by a nominating committee consisting of one (1) committee member selected by the retirement system membership of each of the districts of the Kentucky Education Association, and one (1) committee member to be selected by retired teachers, on a statewide basis, from among the annuitants of the retirement system. No person may be a member of the nominating committee who is not a member of the system, except for the committee member to be selected from among the annuitants of the system. The president of the Kentucky Education Association shall preside over the meeting of the nominating committee and the secretary of the Teachers' Retirement System shall act as secretary to the committee. Two (2) persons shall be nominated by the nominating committee for each position to be filled. All expenses of the election shall be paid by the board of trustees out of its general expense fund.

Section 3. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the

board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57***,*** and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 4. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the dividends and interest income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. A member may not borrow any amount of his or her accumulated contributions to this fund, or any interest earned thereon. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities ***and***~~[,]~~ survivor benefits,~~[and death benefits,]~~ including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520 ***and***~~[,]~~ 161.525~~[, and 161.655]~~;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520 ***and***~~[,]~~ 161.525~~[, and 161.655]~~. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. ***In addition, the medical insurance fund shall be funded by the employer medical insurance fund stabilization contribution as set forth in Section 12 of this Act.*** The medical insurance fund shall receive all interest income from the investments of the fund. All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits;

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any

other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year;

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program;

(8) The supplemental retirement benefit fund shall consist of those funds contributed by the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program; ***and***

(9)[~~The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2); and~~

~~(10)~~] The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under KRS 161.655. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under KRS 161.550. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under KRS 161.655.

Section 5. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors or staff employees, shall adhere to "The Code of Ethics" and "The Standards of Professional Conduct" promulgated by the Association for Investment Management and Research. Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent ***person***[~~man~~] acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) In accordance with the laws, administrative regulations, and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

Section 6. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary ***or two (2) or more co-beneficiaries*** to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary ***or co-beneficiaries. The member may name more than one (1) contingent beneficiary***. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary ***and any co-beneficiary*** designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary ***beneficiary, co-beneficiary,*** or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary ***beneficiary, co-beneficiary,*** or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7)[~~ and 161.650, and for receipt of the life insurance benefit provided under KRS 161.655~~]. ***A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. ***The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under Section 23 of this Act.***

Section 7. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall pay to the retirement system the full actuarial cost of the service credit purchased as provided under KRS 161.220(22).[~~ Two percent (2%) of the required payment shall be allocated to the medical insurance fund.~~] These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of

trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 8. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position ***on a full-time basis***, which would be covered if in Kentucky.

(2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

(5) Notwithstanding any other provisions of this section to the contrary, purchase of service credit for out-of-state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost.

Section 9. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as ***the primary*** beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred forty dollars ($240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars ($6,600) per year or five hundred fifty dollars ($550) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars ($200) per month in the case of one (1) child, three hundred forty dollars ($340) per month in the case of two (2) children, four hundred dollars ($400) per month in the case of three (3) children, and four hundred forty dollars ($440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(13). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.

(8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or

assigns of the deceased member the balance of the accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 10. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as ***the primary*** beneficiary of the member's retirement account, or in the absence of an eligible spouse a legal dependent of the member, if named as ***the primary*** beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or a term certain option. A spouse may receive the annuity provided by this section at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520; however, a legal dependent, other than a spouse, may not receive these payments if children have qualified for benefits under that section.

(2) A spouse[~~ or legal dependent~~] qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the ***primary*** beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

Section 11. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence since July 1, 1964, for reasons of health ***as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq.***, child rearing, or to improve their educational qualifications, and did not qualify at the time of the leave of absence to make contributions to the retirement system for the leave of absence as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

  (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence ***or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted***; and

  (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

  (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 12. KRS 161.550 is amended to read as follows:

(1) Beginning with July 1, each employer, except as provided under KRS 161.555, shall contribute annually to the retirement system a permanent amount equal to that contributed by members of the retirement system it employs plus an additional three and one-fourths percent (3.25%) of the total of salaries of members of the retirement system it employs to discharge the system's unfunded obligations with interest assumed by the state and to provide funding to the medical insurance fund as provided under KRS 161.420(5).

(2) In addition to the required contributions in subsection (1) of this section, the state shall contribute annually to the retirement system a percentage of the total salaries of the state-funded and federally funded members it employs to provide stabilization funding for the medical insurance fund. This contribution shall be known as the state medical insurance fund stabilization contribution. The percentage to be contributed by the state shall be determined by the

retirement system's actuary for each biennial budget period. The percentage to be contributed by the state may be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands.

(3) Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.507(4); 161.515; 161.545; 161.553; 161.605; 161.612; and 161.620(1), (3), (5), (6), and (7). In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

Section 13. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2006***~~[2004]~~:

(a) Cost of Living Allowance	***2004-2005***~~[2002-2003]~~	Each Succeeding Fiscal Year
~~[1988-1990~~	~~$5,761,700~~	~~$2,972,700 in 2003-2004]~~
1990-1992	$4,901,700	~~[$4,901,700 through 2004-2005 and]~~ $2,486,800 in 2005-2006
1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
1994-1996	$6,142,000	$6,142,000 through 2010-2011
1996-1998	$4,459,000	$4,459,000 through 2010-2011
1998-2000	$15,333,900	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
2000-2002	$12,511,400	$12,511,400 through 2014-2015 and $7,227,700 in 2015-2016
2002-2004	***$21,405,700***~~[$4,406,000~~	~~$9,213,400 in 2003-2004]~~ ***$21,405,700***~~[$21,405,600]~~ through 2021-2022 and ***$11,204,100***~~[$11,204,000]~~ in 2022-2023
2004-2006	***$3,996,200***	***$7,706,900 in 2005-2006*** ***$15,413,700 through 2023-2024*** ***and*** ***$7,421,400 in 2024-2025***

(b) Minimum Value Annuities	***2004-2005***~~[2002-2003]~~	Each Succeeding Fiscal Year
~~[1988-1990~~	~~$1,718,200~~	~~$879,500 in 2003-2004]~~
1990-1992	$2,246,900	~~[$2,246,900 through 2004-2005 and]~~ $1,232,100 in 2005-2006

	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
	2002-2004	***$3,375,900***[~~$694,800~~	~~$1,451,800 in 2003-2004~~] $3,375,900 through 2016-2017 and $2,027,800 in 2017-2018
(c)	Sick Leave ***2004-2005***[~~2002-2003~~] Allowance		Each Succeeding Fiscal Year
	1998-2000	$4,660,300	$4,660,300 through 2012-2013 and $2,425,900 through 2013-2014
	2000-2002	$6,167,100	$6,167,100 through 2014-2015 and $3,579,100 in 2015-2016
	2002-2004	***$6,282,500***[~~$3,668,400~~]	***$6,282,500***[~~$7,636,700~~] through 2021-2022 and $3,968,300 in 2022-2023
	2004-2006	***$3,669,700***	***$8,009,200 through 2023-2024*** ***and*** ***$4,339,500 in 2024-2025***

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 14. KRS 161.597 is amended to read as follows:

(1) A member in active contributing status may purchase any service credit which the member is authorized to purchase by making installment payments in lieu of a lump-sum payment.

(2) To initiate an installment payment plan, a member shall make a written request to the retirement system for an estimate to purchase service credit by making installment payments.

(3) To qualify for installment payments, the ***total cost of the service purchase, including any chargeable interest,***[~~member contribution plus interest of eight percent (8%) per annum~~] shall exceed one thousand dollars ($1,000).

(4)[~~A member may select the service credit to be purchased by installment payments and that service credit shall be purchased before any other credit may be purchased by installment payments.~~

~~(5)~~] Installment payments shall be at least fifty dollars ($50) per month and shall be made for a period of time which is not less than twelve (12) months nor more than sixty (60) months. ***Interest at eight percent (8%) per annum, unless the board specifies in an administrative regulation a different interest rate, shall be charged on all installment payment purchases of service credit that are purchasable at less than full actuarial cost.***

(5)[~~(6)~~] Installment payments shall be made on a monthly basis by payroll deduction or electronic fund transfer and forwarded separately to the Teachers' Retirement System on forms or by computer format not later than fifteen (15) days following the end of each month. The payments shall be considered accumulated contributions and shall not be picked up as provided in KRS 161.560***, except that subject to approval by the Internal Revenue Service and only as permitted by the Internal Revenue Code, installment payments by payroll deduction shall be made on a tax-deferred basis***.

(6)[~~(7)~~] A member may elect to terminate payroll deductions at any time and purchase the remaining service credit by lump-sum payment. A member on a leave of absence may make personal installment payments. Termination of employment in a covered position shall terminate installment payments. If the member is later employed by a different employer in a covered position, the member may request a new estimate and reinstate installment payments. A member that misses two (2) consecutive installment payments shall be in default. A member in default shall receive service credit on a pro rata basis for the total amount of contributions made by installment payments. A member in default may not reinstate installment payments for twelve (12) months from the date the member was in default.

(7)[~~(8)~~] If a member dies before completing scheduled installment payments, the named beneficiary of the member's retirement account may pay the remaining balance due by a lump-sum payment within thirty (30) days of the death of the member.

Section 15. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;[~~ or~~]

(c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement***; or***

(d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).

(2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees.

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

Section 16. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Service credit purchased under the provisions of KRS 161.5465 may not be used to meet the thirty (30) year requirement set forth in this subsection.

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may

use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed ***three percent (3%)***[~~four percent (4%)~~] of the membership actively employed full-time by that employer. The board of trustees may reduce this ***three percent (3%)***[~~four percent (4%)~~] cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the ***three percent (3%)***[~~four percent (4%)~~] cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. ***A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.***

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will ***contribute to an***[~~establish a second~~] account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to KRS 161.620(1)(b). This second account shall not entitle the member to a duplication of the benefits offered under KRS 161.655***, Section 19(7) of this Act,*** or 161.675, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.

(6) The board of trustees may annually ***on July 1*** adjust the ***current*** daily rate of a member's last annual compensation, for each[~~ year that the member has been retired for a~~] full twelve (12) month period ***that has elapsed subsequent to the member earning his or her last annual compensation***, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. ***Each annual adjustment shall become part of the member's daily rate base.*** Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations.

(7) ***(a)*** A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

(b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's

retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

(c) Failure to comply with *the*[~~these~~] separation-from-service requirements *in this subsection* voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) *(a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under Section 1(21) of this Act, whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under Section 12 of this Act. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.*

(b) The Department of Education may employ retired members in full-time or part-time teaching positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection.

(9) Members who retired on or before June 30, 2002, may, for the fiscal year concluding on June 30, 2007, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. *Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.*

(10)[~~(9)~~] The return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

(11)[~~(10)~~] The provisions of subsections (1) to *(9)*[~~(8)~~] of this section are not subject to KRS 161.714.

(12)[~~(11)~~] *Retired members may be employed in a part-time teaching capacity by an agency described*[~~Members retired from an agency listed~~] in KRS 161.220(4)(b) or (n) [~~may be employed in a part-time teaching capacity by one (1) of the~~

~~universities or community colleges participating in the Teachers' Retirement System]~~, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. ***Retired*** members~~[retired from an agency listed in KRS 161.220(4)(b) or (n)]~~ may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by ***an agency described in Section 1(4)(b) or (n) of this Act***~~[one (1) of the universities or community colleges participating in the Teachers' Retirement System]~~ in a position that would otherwise be covered by the retirement system.~~[None of these members shall be subject to]~~ The return to work provisions set forth in subsections (1) to ***(9)***~~[(8)]~~ of this section ***shall not apply to retired members who return to work solely for an agency described in Section 1(4)(b) or (n) of this Act***. Calculation of the number of days ***and teaching hours*** for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. ***Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.***

(13)~~[(12)]~~ When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (11) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (11) of this section.

(14) For retired members who return to work during any one (1) fiscal year in both a position described in Section 1(4)(b) or (n) of this Act and in a position described under another provision under Section 1(4) of this Act, and for retired members who return to work in a position described under Section 1(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

Section 17. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220***, excluding those public boards, institutions, and agencies described in Section 1(4)(b) and (n) of this Act***. Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, ***Section 23 of this Act***~~[161.555]~~, 161.661, and 161.663. The board of trustees may adopt eligibility conditions under which members providing part-time or substitute services may participate in other benefits offered by the retirement system. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) ***Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement***

System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.

(5) ***The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.***

(6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(7)[~~(5)~~] The provisions of this section are not subject to KRS 161.714.

Section 18. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). ***The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.***

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS ***161.500***[~~161.550~~].

Section 19. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

(b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.

(c) The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.

(d) The retirement allowance of a member at retirement***, as measured on a life annuity,*** shall not exceed the member's last ***yearly salary***~~[annual compensation]~~ or the member's final average salary, whichever is the greater amount. ***For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of Section 1(9) and (10) of this Act.***

(2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars ($400) effective July 1, 2002, and not less than four hundred forty dollars ($440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2004***~~[2002]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ***eight-tenths of one percent (0.8%)***~~[one and four-tenths percent (1.4%)]~~ of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2002-2004 biennium budget appropriation.

(6) Effective July 1, ***2005***~~[2003]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ***seven-tenths of one percent (0.7%)***~~[one and one half percent (1.5%)]~~ of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2002-2004 biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 20. KRS 161.630 is amended to read as follows:

(1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The *retirement*[~~benefit~~] option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

(a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement *that provides*[~~to provide~~] continuing benefits to *a spousal*[~~the~~] beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or

(b) Following marriage or remarriage, or the death[~~ of a spouse, or the death~~] of *the*[~~any other~~] designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.

(3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the[~~ straight~~] life annuity with refundable balance option or the predetermined years certain and life thereafter option.

(4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

Section 21. KRS 161.640 is amended to read as follows:

(1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. *Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.*

(2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.

(3) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All annuity and survivor monthly allowance payments shall be made by electronic fund transfer by December 31, 1998.

Section 22. KRS 161.650 is amended to read as follows:

(1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

(2) The member may designate a primary beneficiary or two (2) or more co-beneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the co-beneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse, unless subsequent to divorce the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary, any remaining accumulated member contributions shall be payable to the member's estate.

Section 23. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall*:*

(a) Provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system*; and*

(b) [~~. The Teachers' Retirement System shall ~~]Provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.

(2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To

the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse, unless subsequent to divorce the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

(3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(4)[~~(2)~~] Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

Section 24. KRS 161.680 is amended to read as follows:

If any change or error in a record results in any ***individual***[~~employee or beneficiary~~] receiving from the retirement system more or less than ***the individual***[~~he~~] was entitled to receive, the board of trustees shall, when the error is discovered, correct the error, and as far as practicable adjust the payments so that the actuarial equivalent of the benefit to which ***the individual***[~~he~~] was entitled shall be paid.

Section 25. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an[~~ irrevocable~~] election to participate in the optional retirement plan within thirty (30) days after their employment date. ***This election shall be irrevocable except as otherwise provided in this subsection.*** No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. ***Any person who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system.*** These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 26. KRS 161.569 is amended to read as follows:

(1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as he is employed in a position for which the optional retirement plan is available***, except as provided in subsection (1) of Section 25 of this Act***.

(2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.

(3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.

(4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(5) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

1. To the designated company or companies, an amount equal to the amount that would have been payable to the Kentucky Teachers' Retirement System if the member had elected to participate in that plan instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System

pursuant to subparagraph 2. of this paragraph; and

2. To the Kentucky Teachers' Retirement System, an amount equal to the contribution which would have been payable to the Kentucky Teachers' Retirement System on account of the unfunded liability if the member had elected to participate in that plan instead of the optional retirement plan. The rate of contribution shall be determined annually by the Kentucky Teachers' Retirement System actuary. This payment shall continue to be made on behalf of all participants in the optional retirement plan until July 1, 2018, the current amortization period of the Kentucky Teachers' Retirement System.

(b) Each participant shall contribute an amount equal to the present member contribution to the Kentucky Teachers' Retirement System. Employee contributions to the optional retirement plan shall be made by salary reduction under either Section 403(b) or 414(h) of the Internal Revenue Code of 1986.

Section 27. The provisions of subsection (8) of Section 16 of this Act supercede the provisions relating to critical shortage positions set forth in 2003 Kentucky Acts ch. 156, sec. 1.

Section 28. Whereas retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2004.

The Committee on Labor and Industry reported **HB 65,** with Committee Substitute attached thereto, **HB 198, HB 234, HB 523, HB 570, HB 572,** and **HR 139** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to telephone solicitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. ***Making a telephone solicitation to a telephone number of a wireless cellular or a wireless personal service communications (PCS) customer.*** When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) (a) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of

Consumer Protection. Any holder of a residential telephone number may notify the division and be placed on a zero call list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list.

(b) The zero call list shall be updated, published, and distributed on a quarterly basis in electronic and hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each quarter each telemarketing company, telemarketer, and merchant shall be deemed to be on notice not to solicit any person whose telephone number appears on the list. The list shall be made available to requesters either on a statewide or county by county basis;

(16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;

(17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;

(18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or

(19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

The Committee Substitute to **HB 65** is as follows:

HB 65, AN ACT relating to telephone solicitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. ***Making a telephone solicitation to a telephone number of a wireless cellular or a wireless personal communications service (PCS) customer.*** When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) (a) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone

appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection. Any holder of a residential telephone number may notify the division and be placed on a zero call list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list.

(b) The zero call list shall be updated, published, and distributed on a quarterly basis in electronic and hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each quarter each telemarketing company, telemarketer, and merchant shall be deemed to be on notice not to solicit any person whose telephone number appears on the list. The list shall be made available to requesters either on a statewide or county by county basis;

(16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;

(17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;

(18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or

(19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

Section 2. KRS 367.46994 is amended to read as follows:

(1) Any person may apply to the Office of the Attorney General, Division of Consumer Protection, to have his or her residential telephone number listed on the zero call list. The Office of the Attorney General shall provide automated telephone dial-in registration and shall collect only the home phone number from the applicant deemed to be required to administer the zero call list. The Office of the Attorney General shall promulgate administrative regulations to:

(a) Provide for automatic telephone number referral from the incumbent local exchange carrier or the competitive local exchange carrier to the Office of the Attorney General for the purpose of updating the zero call list to reflect an applicant's change of address or an applicant's termination of telephone service; and

(b) Develop, modify, or administer the zero call list in such a way as to permit interface with any national registry established by the Federal Trade Commission or the Federal Communications Commission for the purpose of including in Kentucky's zero call list that part of the national database that relates to the Commonwealth or release to the national registry applicants on the zero call list that indicate a preference to be listed on a national registry.

(2) The Attorney General shall place the residential telephone number provided by the applicant on the list. The Attorney General may update the information on the list as provided in subsection (1) of this section, but shall not remove the information unless requested to do so in writing by the applicant, or upon receiving notice that the given telephone number is no longer held in the name of the applicant.

(3) Persons whose telephone numbers appear on the zero call list shall not receive telephone solicitations except in accordance with the provisions of KRS 367.46951 to 367.46999.

(4) Any person that applies to the Office of the Attorney General to be placed on the zero call list shall be informed about how to add his or her name or telephone number to company-specific and industry-wide no solicitation call lists, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS).

(5) Information contained in a database established for the purpose of administering the zero call list shall be used only for the purpose of implementing the zero call program in conformance with KRS 367.46951 to 367.46999.

(6) The zero call list shall be available at no cost to any merchant or telemarketing company that is required to consult the list. In addition to the formats described in KRS 367.46955(15), the list shall be made available in a format for electronic download from the Internet Web page of the Office of the Attorney General. The Attorney General shall make the electronic list available in a format that is searchable by area code and by local exchange. The electronic format shall be arranged with the last four digits of the telephone numbers in ascending order. The electronic list shall also be searchable by individual number and shall be downloadable in at least five (5) of the most common commercially available data management program formats. Hard copies of the zero call list shall be arranged by area code and local exchange with the last four digits in ascending order. The Office of the Attorney General shall develop procedures to assure that:

(a) The merchant or telemarketing company requesting the list shall maintain the confidentiality of the information on the list; and

(b) The merchant or telemarketing company shall use the list only for the purpose of preventing telephone solicitation calls to persons whose telephone numbers appear on the list.

(7) The Kentucky Public Service Commission shall produce a consumer education pamphlet that:

(a) Describes the changes made in the year 2002 to Kentucky's telemarketing laws including the creation of the zero call list;

(b) Describes the consumer's rights and responsibilities regarding the receipt of telephone solicitation;

(c) Explains how consumers can apply to be placed on the zero call list and on any federal do not call registry established by the Federal Communications Commission or the Federal Trade Commission;

(d) Explains how to apply to be placed on company-specific and industrywide no solicitation calls list, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS); and

(e) Describes how a consumer can file a complaint if the consumer receives calls after being placed on the zero call list.

(8) At least once a year, the Public Service Commission ***may***~~[shall]~~ require that the pamphlet be included in the billing inserts of the telephone companies under the Public Service Commission's jurisdiction ***or may require the telephone companies to print the information contained in the pamphlet directly onto the customer bill***.

HB 198, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 367.934 TO 367.974 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any contract entered into between a cemetery owner and a consumer for the purchase of a grave space, columbarian niche, mausoleum crypt, or underground crypt shall prohibit placing human remains in the same cemetery as animal remains are buried, entombed, inurned, or otherwise placed in, unless the cemetery owner expressly sets out in the sales contract that animal remains may be buried, entombed, inurned, or otherwise placed in the cemetery.

(b) Beginning the effective date of this Act, if animal and human remains have been or are permitted to be buried, entombed, inurned, or otherwise placed in the same cemetery, the cemetery owner shall notify all new purchasers of that condition by:

1. Including in each contract for the sale or assignment of a grave space, columbarian niche, mausoleum crypt, or underground crypt in the cemetery, a provision that expressly indicates that the cemetery contains or may contain both animal and human remains; and

2. Reading aloud to each purchaser, prior to his or her entering a contract for the sale of a grave space, columbarian niche, mausoleum crypt, or underground crypt in the cemetery, the provision required under subparagraph 1. of this paragraph.

(c) The provisions required under paragraphs (a) and (b) of this subsection shall appear in a conspicuous place in the contract in bold-faced type.

(d) Compliance with paragraph (b) of this subsection shall be evidenced by the signature or the initials of the purchaser in close proximity to the provision.

(2) Any contract that does not contain express language prohibiting or permitting the burial, entombment, inurnment, or placement of animal remains in a cemetery where human remains are buried, entombed, inurned, or otherwise placed shall be deemed as prohibiting the burial, entombment, inurnment, and otherwise placement of animal remains in that cemetery.

(3) Subsections (1) and (2) of this section shall not apply to contracts for the purchase of a grave space, columbarian niche, mausoleum crypt, or underground crypt entered into prior to the effective date of this Act.

(4) The Attorney General may promulgate administrative regulations establishing procedures and forms for implementing and documenting compliance with this section.

HB 234, AN ACT relating to unlawful practices by employers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.040 is amended to read as follows:

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, ***because of any genetic test result relating to the individual***, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(2) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, ***because of any genetic test result relating to the individual***, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;~~[or]~~

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using

tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking*; or*

(4) To require as a condition of employment that any employee or applicant for employment undergo genetic testing.

HB 523, AN ACT relating to consumer contracts.

WHEREAS, the borderless nature of commerce in the past five years has allowed consumers to readily purchase goods, services, and information from sellers, suppliers, and other merchants residing in multiple jurisdictions; and

WHEREAS, consumers should have access to fair, timely, effective, and affordable resolution of disputes arising out of these transactions; and

WHEREAS, these consumer contracts are increasingly drafted by the party having superior bargaining power, are executory and nonnegotiable in nature, and often contain a choice-of-forum provision that designates a jurisdiction as the exclusive forum for the adjudication of all claims arising from the transaction; and

WHEREAS, it is unreasonable and unduly oppressive to require consumers to travel hundreds of miles to seek redress for claims arising out of agreements and contracts entered into with sellers, suppliers, and other merchants who conduct business in this Commonwealth; and

WHEREAS, it is the public policy of this Commonwealth to provide a judicial or arbitral forum to resolve disputes arising out of consumer transactions over which its courts have jurisdiction; and

WHEREAS, Kentucky courts may exercise personal jurisdiction over a person who acts, directly or through an agent, as to a claim arising from the person's transacting business or contracting to supply goods or services in this Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 372 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Consumer" means an individual engaged in a transaction for personal, family, or household purposes; and

(b) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or collections or compilations thereof.

(2) A choice-of-forum provision in a consumer agreement or contract is void as contrary to the public policy of this Commonwealth if:

(a) The agreement or contract involves the sale or lease or offering for sale or lease of goods, services, or information in this Commonwealth;

(b) The agreement or contract selects a jurisdiction as the exclusive judicial forum for any claim or action arising out of or relating to the agreement or contract or a provision in the agreement or contract purports to waive the application of this section to the parties; and

(c) The consumer against whom enforcement of the choice-of-forum provision is sought is a resident of this Commonwealth or the seller, supplier, or other merchant seeking the enforcement is domiciled in this Commonwealth.

(3) A choice-of-law provision in a consumer agreement or contract is voidable as against the public policy of this Commonwealth if a court of competent jurisdiction finds that the applicable laws of the other jurisdiction are contrary to the public policy of this Commonwealth.

Section 2. KRS 454.210 is amended to read as follows:

(1) As used in this section*:*~~[,]~~

(a) "Person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth*; and*

(b) "Information" includes data, text, images, sounds, codes, computer programs, software, databases, or collections or compilations thereof.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services*,*~~[or]~~ goods*, or information* in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods *or information* used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing

or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods ***or information*** outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods ***or information*** in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods ***or information*** used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting;

8. Committing sexual intercourse in this ***Commonwealth***[~~state~~] which intercourse causes the birth of a child when:

   a. The father or mother or both are domiciled in this ***Commonwealth***[~~state~~];

   b. There is a repeated pattern of intercourse between the father and mother in this ***Commonwealth***[~~state~~]; or

   c. Said intercourse is a tort or a crime in this ***Commonwealth***[~~state~~]; or

9. Making a telephone solicitation, as defined in KRS 367.46951, into the Commonwealth.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person;

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail two (2) true copies to the Secretary of State and shall also mail with the summons two (2) attested copies of plaintiff's complaint. The Secretary of State shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure; and

(c) The clerk mailing the summons to the Secretary of State shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding ***any provision of*** this section ***to the contrary***.

Section 3. KRS 372.005 is amended to read as follows:

KRS 372.010 to 372.050[~~The terms and provisions of this chapter~~] do not apply to betting, gaming, or wagering that has been authorized, permitted, or legalized, including, but not limited to, all activities and transactions permitted under KRS Chapters 154A, 230, and 238.

Section 4. In the past five years the borderless nature of commerce has allowed consumers to readily purchase goods, services, and information from sellers, suppliers, and other merchants residing in multiple jurisdictions. These consumer contracts have increasingly been drafted by the party having superior bargaining power, have been executory and nonnegotiable in nature, and have often contained a choice-of-forum provision that designates a jurisdiction as the exclusive forum for the adjudication of all claims arising from the transaction. It is unreasonable and unduly oppressive to require consumers to travel hundreds of miles to seek redress for claims arising out of agreements and contracts entered into with sellers, suppliers, and other merchants conducting business in the Commonwealth. Therefore, Section 1 of this Act shall apply retrospectively to any actions, other than those actions given res judicata effect by a court of competent jurisdiction, which accrued in the five years immediately preceding the effective date of this Act.

HB 570, AN ACT relating to collective bargaining for police officers in a consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Cabinet" means the Kentucky Labor Cabinet;

(2) "Labor organization" means any chartered labor organization of any kind in which police officers participate and which exists for the primary purpose of dealing with consolidated local governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;

(3) "Exclusive representative" means the labor organization which has been designated by the Labor Cabinet as the representative of the majority of police officers in appropriate units or has been so recognized by the consolidated local government;

(4) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers; and

(5) "Secretary" means the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Police officers of a consolidated local government shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.

(2) Labor organizations designated by the cabinet as the representative of the majority of police officers in an appropriate unit or recognized by a consolidated local government as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of that unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.

(3) Labor organizations recognized by a consolidated local government as the exclusive representative or so designated in accordance with the provisions of this section shall be responsible for representing the interest of all police officers in the unit without discrimination.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The consolidated local government and the labor organization that has been designated as the exclusive representative of police officers in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Consolidated local governments, their representatives, or their agents are prohibited from:

  (a) Interfering, restraining, or coercing police officers in the exercise of the rights guaranteed in Section 2 of this Act;

  (b) Dominating or interfering with the formation, existence, or administration of any labor organization;

  (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided that nothing in this section, or in any other statute of this state, shall preclude a consolidated local government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;

  (d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or

  (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

  (a) Restraining or coercing:

    1. Police officers in the exercise of the right guaranteed in Section 2 of this Act; and

    2. A consolidated local government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or

  (b) Refusing to bargain collectively in good faith with a consolidated local government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers in an appropriate unit.

(3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making

process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Whenever, in accordance with administrative regulations that may be promulgated by the Cabinet, a petition has been filed:

(a) By a police officer or group of police officers or any labor organization acting in behalf of thirty percent (30%) of the employees who have signed labor organization affiliation cards and the labor organization showing proof of representation:

1. Alleging that they wish to be represented for collective bargaining by a labor organization as exclusive representative; or

2. Asserting that the labor organization which has been certified or is currently being recognized by the consolidated local government as bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) By a consolidated local government alleging that one (1) or more labor organizations has presented to it a claim to be recognized as the representative of the majority of police officers in an appropriate unit;

The cabinet shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the cabinet finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the police officers desire to be represented and shall certify the result thereof to the legislative council of the consolidated local government.

(2) The cabinet shall decide in each case, in order to assure police officers the fullest freedom in exercising the rights guaranteed by this section, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the police officers involved; the history of collective bargaining; and the desires of the police officers.

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve (12) month period a valid election has been held. The cabinet shall determine who is eligible to vote in the election and shall promulgate administrative regulations governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the cabinet as exclusive representative of all the police officers in the unit.

(4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by a consolidated local government by mutual consent.

(5) No election shall be directed by the cabinet in any bargaining unit where there is in force and effect a valid collective bargaining agreement; provided, however, that collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than four (4) years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Violations of the provisions of Section 4 of this Act shall be deemed to be unfair labor practices remedial by the cabinet in the following manner.

(1) Whenever it is charged by a consolidated local government or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the cabinet or any hearing officer designated by the cabinet shall conduct an administrative hearing in accordance with KRS Chapter 13B.

(2) If, upon the preponderance of the evidence presented, the cabinet is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring the person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of police officers with or without back pay, as will effectuate the policies of this section. The final order may further require the person to make reports from time to time showing the extent to which he or she has complied with the order. If, upon the preponderance of the evidence presented, the cabinet is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the cabinet shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the cabinet, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event the six (6) month period shall be computed from the day of his or her discharge. No final order of the cabinet shall require the reinstatement of any individual as a police officer who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.

(3) Until a final order has been appealed, the cabinet at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.

(4) The cabinet or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.

(5) Any person aggrieved by a final order of the cabinet may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) If, after a reasonable period, but in no event less than thirty (30) days, of negotiations over the terms of a new collective bargaining agreement or modifications in an existing agreement, the parties to the negotiations are deadlocked, either party or the parties jointly may petition the cabinet, by certified mail, return receipt requested, or by registered mail, to initiate fact-finding.

(2) Upon receipt of a petition to initiate fact-finding, the cabinet shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the secretary is empowered to utilize his or her office in an effort to effectuate a settlement between the parties through mediation and conciliation.

(3) Upon completion of the cabinet's investigation, and if a settlement between the parties has still not been reached, the secretary shall within ten (10) days appoint a qualified and disinterested person as the impartial chairman of a three (3) member panel to function as the fact-finders. In addition to the impartial chairman, the other two (2) members of the panel shall be one (1) member named by the labor organization and one (1) member named by the consolidated local government, parties to the deadlocked negotiations.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the consolidated local government is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings the panel shall, by majority decision, make written findings of fact, recommendations, and opinions to be served on the consolidated local government and labor organization (parties) and these shall be released to the public. Expenses incurred by the three (3) member panel in this section shall be paid by the parties involved in the labor dispute.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the consolidated local government and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this section and signed by the mayor of the consolidated local government or the mayor's representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between a consolidated local government and a labor organization provided by this section shall be the exclusive method of making a valid agreement for police officers represented by a labor organization.

(3) Suits for violation of agreements between a consolidated local government and a labor organization representing police officers may be brought by the parties to the agreement in the Circuit Court of the consolidated local government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Upon the written authorization of any police officers within a bargaining unit, the consolidated local government shall deduct from the payroll of the police officer the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

No police officer of a consolidated local government shall engage in, and no police officer labor organization shall sponsor or condone, any strike.

HB 572, AN ACT relating to collective bargaining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Cabinet" means the Kentucky Labor Cabinet;

(2) "Exclusive representative" means the labor organization which has been designated by the Labor Cabinet as the representative of the majority of police officers or firefighters in appropriate units or has been so recognized by the urban-county government;

(3) "Firefighter" means an employee of an urban-county government engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(4) "Labor organization" means any chartered labor organization of any kind in which police officers or firefighters

participate and which exists for the primary purpose of dealing with urban-county governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;

(5) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(6) "Police officer" means an employee, sworn or certified, of an urban-county government who participates in the Law Enforcement Foundation Program Fund provided in KRS 15.410 to 15.510; and

(7) "Secretary" means the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) Police officers and firefighters of an urban-county government shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.

(2) Labor organizations designated by the cabinet as the representative of the majority of police officers or firefighters in an appropriate unit or recognized by an urban-county government as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of that unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.

(3) Labor organizations recognized by an urban-county government as the exclusive representative or so designated in accordance with the provisions of this section shall be responsible for representing the interests of all police officers or firefighters in the unit without discrimination.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

The urban-county government and the labor organization that has been designated as the exclusive representative of police officers or firefighters in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) Urban-county governments and their representatives and agents are prohibited from:

(a) Interfering, restraining, or coercing police officers or firefighters in the exercise of the rights guaranteed in Section 2 of this Act;

(b) Dominating or interfering with the formation, existence, or administration of any labor organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided that nothing in this section, or in any other statute of this state, shall preclude an urban-county government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations and their agents are prohibited from:

(a) Restraining or coercing:

1. Police officers or firefighters in the exercise of the right guaranteed in Section 2 of this Act, and

2. An urban-county government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or

(b) Refusing to bargain collectively in good faith with an urban-county government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers or firefighters in an appropriate unit.

(3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) Whenever, in accordance with administrative regulations that may be promulgated by the cabinet, a petition has been filed:

(a) By a police officer, group of police officers, a firefighter, group of firefighters, or any labor organization acting

on behalf of thirty percent (30%) of the employees who have signed labor organization affiliation cards and the labor organization showing proof of representation:

1. Alleging that they wish to be represented for collective bargaining by a labor organization as exclusive representative, or

2. Asserting that the labor organization which has been certified or is currently being recognized by the urban-county government as bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) By an urban-county government alleging that one (1) or more labor organizations has presented to it a claim to be recognized as the representative of the majority of police officers or firefighters in an appropriate unit;

The cabinet shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the cabinet finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the police officers or firefighters desire to be represented, and shall certify the result thereof to the legislative council of the urban-county government.

(2) The cabinet shall decide in each case, in order to assure police officers and firefighters the fullest freedom in exercising the rights guaranteed by this section, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the police officers or firefighters involved; the history of collective bargaining; and the desires of the police officers or firefighters.

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve (12) month period a valid election has been held. The cabinet shall determine who is eligible to vote in the election and shall promulgate administrative regulations governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted and the ballot shall provide for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the cabinet as exclusive representative of all the police officers or firefighters in the unit.

(4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by an urban-county government by mutual consent.

(5) No election shall be directed by the cabinet in any bargaining unit where there is in force and effect a valid collective bargaining agreement; provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than four (4) years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Violations of the provisions of Section 4 of this Act shall be deemed to be unfair labor practices remedial by the cabinet in the following manner.

(1) Whenever it is charged by an urban-county government or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the cabinet or any hearing officer designated by the cabinet, shall conduct an administrative hearing in accordance with KRS Chapter 13B.

(2) If, upon the preponderance of the evidence presented, the cabinet is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring the person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of police officers or firefighters with or without back pay, as will effectuate the policies of this section. The final order may further require the person to make reports from time to time showing the extent to which he or she has complied with the order. If, upon the preponderance of the evidence presented, the cabinet is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the cabinet shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the cabinet, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event, the six (6) month period shall be computed from the day of his or her discharge. No final order of the cabinet shall require the reinstatement of any individual as a police officer or firefighter who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.

(3) Until a final order has been appealed, the cabinet at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.

(4) The cabinet or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.

(5) Any person aggrieved by a final order of the cabinet may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) If, after a reasonable period, but in no event less than thirty (30) days, of negotiations over the terms of a new collective

bargaining agreement or modifications to an existing agreement, the parties to the negotiations are deadlocked, either party or the parties jointly may petition the cabinet, by certified mail, return receipt requested, or by registered mail, to initiate fact-finding.

(2) Upon receipt of a petition to initiate fact-finding, the cabinet shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the secretary is empowered to utilize his or her office in an effort to effectuate a settlement between the parties through mediation and conciliation.

(3) Upon completion of the cabinet's investigation, and if a settlement between the parties has still not been reached, the secretary shall within ten (10) days appoint a qualified and disinterested person as the impartial chairman of a three (3) member panel to function as the fact-finders. In addition to the impartial chairman, the other two (2) members of the panel shall be one (1) member named by the labor organization and one (1) member named by the urban-county government, parties to the deadlocked negotiations.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the urban-county government is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings, the panel shall, by majority decision, make written findings of fact, recommendations, and opinions to be served on the urban-county government and labor organization parties and released to the public. Expenses incurred by the three (3) member panel in this section shall be paid by the parties involved in the labor dispute.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the urban-county government and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this section and signed by the mayor of the urban-county government or his or her representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between an urban-county government and a labor organization provided by this section shall be the exclusive method of making a valid agreement for police officers or firefighters represented by a labor organization.

(3) Suits for violation of agreements between an urban-county government and a labor organization representing police officers or firefighters may be brought by the parties to the agreement in the Circuit Court of the urban-county government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Upon the written authorization of any police officers or firefighters within a bargaining unit, the urban-county government shall deduct from the payroll of the police officer or firefighter the monthly amount of dues as certified by the secretary of the exclusive bargaining representative, and shall deliver the same to the treasurer of the exclusive bargaining representative.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

No police officer or firefighter of an urban-county government shall engage in, and no police officer labor organization or firefighter labor organization shall sponsor or condone, any strike.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, the provisions of Sections 1 to 10 of this Act shall not be construed or interpreted to apply to volunteer firefighters.

HR 139, A RESOLUTION urging the United States Congress to repeal the North American Free Trade Agreement and to end the Free Trade of the Americas negotiations

WHEREAS, the North American Free Trade Agreement (NAFTA) between Canada, Mexico and the United States took effect in 1994; and

WHEREAS, proponents of NAFTA promised increased U.S. jobs through greater exports to Canada and Mexico, lower prices for American consumers and improved economic conditions for Mexican citizens; and

WHEREAS, on the tenth anniversary of NAFTA more than 700,000 American jobs have been lost as a result of NAFTA ; and

WHEREAS, Kentucky has lost more than 22,000 jobs as a result of NAFTA; and

WHEREAS, the annual U.S. trade deficit with Mexico has reached $30 billion and the trade deficit with Canada has reached $50 billion; and

WHEREAS, the number of Mexican citizens living in poverty has increased from 63 million to 69 million since NAFTA; and

WHEREAS, consumer goods imported from Mexico are no cheaper than before the implementation of NAFTA; and

WHEREAS, the promises of NAFTA have not been fulfilled and the results have produced unprecedented job losses across Kentucky and in all the United States, have created skyrocketing trade imbalances with Canada and Mexico and have further impoverished the citizens of Mexico;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body declares that the unfilled promises of the North American Free Trade Agreement have resulting in economic devastation affecting all Kentuckians in a manner which must urgently be addressed by Kentucky's representatives to the U.S. Senate and the U.S. House of Representatives.

Section 2. The United States Congress is urged to repeal, immediately, the North American Free Trade Agreement and to take actions to mitigate the effects of this agreement on the citizens of the Commonwealth of Kentucky.

Section 3. The United State Congress is urged to curtail any further consideration or negotiations over the Free Trade Area of the Americas, which would extend the North American Free Trade Agreement to thirty-four other countries in this hemisphere and worsen the already negative impact of the North American Free Trade Agreement on the workers and consumers of these United States as well as those in other participating nations.

Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to each member of Kentucky's delegation in the United States Congress.

The Committee on State Government reported **HB 320**, with Committee Substitute attached thereto, **HB 493, HB 588**, and **HCR 161** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 320, AN ACT relating to public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.601 is amended to read as follows:

The board shall have all powers necessary and convenient to carry out its purposes, including the power to:

(1) Hold as trustee for the benefit of the people of Kentucky the lands of the hospital, custody and control of which, in that fiduciary capacity, are hereby transferred to the board. The lands shall remain in the board's trusteeship until they are disposed of in accordance with subsection (5) of this section;

(2) Solicit and accept appropriations, gifts, or grants from any public or private source, within or outside the Commonwealth, and expend those funds for any lawful purpose in order to administer, operate, maintain, or improve the lands of the hospital. The authority's funds shall be invested in accordance with KRS 42.500.

(3) Develop and revise a master plan for the use of the hospital lands in the public interest, and require that uses of the land, and any buildings or other improvements located on the land, comply with the master plan adopted by the board;

(4) Subject to the availability to the authority of sufficient funds:

  (a) Contract *in writing* through the Finance and Administration Cabinet, under KRS Chapters 45A and 56, for the removal of asbestos from buildings located on the hospital lands and for any other remedial action that may be needed to eliminate any hazardous or potentially hazardous, environmentally related condition or problem affecting the hospital lands;

  (b) Demolish any building or other structure located on the hospital grounds; and

  (c) Renovate, remodel, repair, or reconstruct any building or other structure, located on the hospital grounds, that the authority deems to be of historic interest or of contemporary use consistent with community needs;

(5) In the sound exercise of its discretion, convey the hospital land in fee simple, or lease the land for a period of not more than ninety-nine (99) years, subject to terms and conditions that the board determines to be in the public interest, to a public entity for maintenance and use in accordance with the master plan adopted by the board under subsection (3) of this section. The secretary of the Finance and Administration Cabinet, with the approval of the Governor, shall execute the lease or deed on behalf of the Commonwealth, as required by KRS 45A.045(4);

(6) Employ, without regard to KRS Chapter 18A, or contract *in writing*, in accordance with KRS Chapter 45A, for the services of accountants, attorneys, architects, engineers, contractors, and other consultants and employees that the board determines are required, and fix and pay their compensation from funds available to the board; and

(7) Promulgate administrative regulations, in accordance with KRS Chapter 13A, that the board deems necessary to facilitate the implementation of its powers under this section, adopt bylaws governing the internal operating policies and procedures of the board, and do all other things, perform all other acts, and take all other action the board determines to be necessary to carry out its purposes and authority under KRS 56.600 to 56.602.

Section 2. KRS 96.260 is amended to read as follows:

The board of waterworks shall be vested with all the authority and privileges, exercise all the franchises, and have possession, control, and management of all the property, of the corporation of which the consolidated local government or city owns all the stock. It may make contracts and sue and be sued, but only in the name of the corporation. ***Any contract made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690,***

shall be subject to KRS 45A.690 to 45A.725.

Section 3. KRS 148.563 is amended to read as follows:

(1) An executive director shall be appointed in accordance with KRS 12.050.

 (a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.

 (b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.

(2) The staff of the authority, including its executive director, shall be employees of the Tourism Development Cabinet.

(3) Any contract made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 4. KRS 151B.465 is amended to read as follows:

All powers, duties, and responsibilities conferred upon the corporation by KRS 151B.450 to 151B.475 shall be exercised by the board of directors of the corporation. They shall include, but shall not be limited to, the following:

(1) To establish and administer a program for providing low-interest loans to qualified borrowers through qualified lenders for the acquisition of assistive technology.

(2) To establish criteria for participation in the loan program as a qualified lender or qualified borrower and to establish the terms and conditions under which loans are to be made. The board shall contract with one (1) or more federal-approved or state-approved lending institutions for the purpose of making loans to qualified borrowers, the qualified borrower having been preapproved by the board consistent with criteria established by the board and promulgated in administrative regulations.

(3) To enter into agreements, contracts, or other documents with any federal, state, or local agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of KRS 151B.450 to 151B.475. ***All contracts made by or on behalf of the board of directors shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A. 690, shall be subject to KRS 45A.690 to 45A.725.***

(4) To accept for inclusion in the fund appropriations, grants, revenue sharing, devises, gifts, bequests, donations, federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(5) To incorporate a nonprofit organization pursuant to KRS Chapter 273 which qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, for the purpose of receiving tax-deductible gifts, donations, and bequests.

(6) To invest moneys from the fund with qualified lenders for the purposes of providing interest reductions, interest buy downs, and loan guarantees.

(7) To sue and be sued in its own name.

(8) To adopt an official seal and alter it as necessary.

(9) To promulgate administrative regulations through the cabinet and pursuant to KRS Chapter 13A to establish the policies and procedures under which the powers, duties, and responsibilities conferred by KRS 151B.450 to 151B.475 are to be carried out.

Section 5. KRS 154.33-535 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.33-501 to 154.33-585, including, but not limited to:

(1) Adopt and have a common seal and alter the same at pleasure;

(2) Sue and be sued in its own name and plead and be impleaded;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.33-501 to 154.33-585***. All contracts and agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.33-550;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, and in such manner and under terms as may be provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds; however, any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; however, the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as may be deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services at any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform other and further acts as may be necessary to carry out the corporation functions and purposes as explicitly stated or implied by KRS 154.33-501 to 154.33-585.

Section 6. KRS 154.33-605 is amended to read as follows:

(1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) Five (5) members of the board shall constitute a quorum, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations governing the operation, maintenance, or use of property under its custody and control in accordance with KRS Chapter 13A.

(5) Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at the board's pleasure.

(a) The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.

(b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all of the documents, which shall be public records under KRS 61.870 to 61.884.

(8) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.

(9) All contracts made by or on behalf of the corporation shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 7. KRS 154.40-040 is amended to read as follows:

(1) The board may develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.

(5) Minutes and records of all meetings of the board shall be kept, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at its pleasure.

(a) The executive director shall act under the direction of the board in employing necessary staff to perform the corporation's duties and exercise its powers.

(b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.

(8) All contracts made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 8. KRS 154.85-035 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.85-001 to 154.85-085, including, but not limited to:

(1) Have a common seal which may be altered at will;

(2) Sue and be sued, and complain and defend in its corporate name;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.85-001 to 154.85-085, including, but not limited to, contracting with other agencies for the performance of its functions, and contracting with the Cabinet for Economic Development, or its successor, in the performance of specific state economic development functions and activities***. All contracts and agreements made by or on behalf of the corporation shall be in writing. All personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.85-050;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds and bond anticipation notes or other obligations payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, in the manner and under terms as provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation, and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds, but any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities, but the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in amounts, and from insurers, as deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services to any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform any other acts necessary to carry out the corporation's functions and purposes as explicitly stated or implied by KRS 154.85-001 to 154.85-085.

Section 9. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the Natural Resources and Environmental Protection Cabinet and the Labor Cabinet on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the Labor Cabinet regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities***. All contracts and agreements made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 10. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

   (a) Sue and be sued in its corporate name;

   (b) Adopt a corporate seal and a symbol;

   (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

   (d) Appoint agents upon which process may be served;

   (e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

   (f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

   (g) Make, execute, and effectuate any and all agreements or contracts including:

      1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service ***and memoranda of agreement, as defined in KRS 45A.690,*** shall be reviewed in accordance with KRS 45A.690 to 45A.725.

      2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

   All contracts and agreements made by or on behalf of the corporation shall be in writing.

(2) The corporation shall:

   (a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

   (b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period;

   (c) Adopt by administrative regulation a system of continuous internal audits;

   (d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;

   (e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;

   (f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS

154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

(g) The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and

(h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

Section 11. KRS 164A.060 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

(1) To make or participate in the making of insured student loans.

(2) To purchase or participate in the purchase of insured student loans, which purchase may be from eligible lenders.

(3) To sell or participate in the sale of insured student loans, which sale may be to eligible lenders or to the student loan marketing association.

(4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced insured student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.

(5) To procure insurance in respect of all student loans made or purchased by the corporation.

(6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any insured student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.

(7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and such other expenses as are necessary or incident to any such borrowing.

(8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.

(9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of this chapter. ***All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.***

(10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(11) To sue and be sued in its own name and to plead and be impleaded.

(12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.

(13) To adopt an official seal and alter the same at pleasure.

(14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

(15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.

(16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in

obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.

(17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.

(18) To service and collect educational loans for other lenders, holders, and educational institutions.

Section 12. KRS 175.450 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate, and regulate turnpike projects at such locations within the Commonwealth as may be determined by the authority and the department and provided for in an agreement or agreements;

(2) To acquire sites abutting on any turnpike project, as a part of such project, and to construct or contract for the construction of buildings and appurtenances for service stations, garages, restaurants and other services and to lease the same to parties other than the department for any of such purposes (or, if leases to such parties cannot be made on acceptable terms, to operate or to lease to the department any or all of the same) in such manner and under such terms as may be provided in an agreement;

(3) To issue turnpike revenue bonds of the authority payable solely from the tolls, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any one or more turnpike projects, and to refund any of its bonds;

(4) To fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it, except to the extent that such powers are surrendered to the department pursuant to a lease;

(5) To combine for financing purposes any two (2) or more turnpike projects;

(6) To lease as lessor any turnpike project or projects to the department as lessee, pursuant to the terms and provisions of a lease;

(7) To establish and enforce rules and regulations for the use of any turnpike project, except during any period when such powers are provided to be exercised by the department pursuant to a lease;

(8) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same, with the approval of the department;

(9) To designate the locations and establish, limit and control such points of ingress to and egress from each turnpike project as the authority and the department may determine to be necessary or desirable to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(10) To make and enter into such contracts and agreements with the department and other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter***. All contracts and agreements made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(11) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) To receive and accept from the Commonwealth, the department, and any federal agency, grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(13) To expend any funds provided under the authority of this chapter in advertising the facilities and services of a turnpike project or projects to the traveling public; and

(14) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Section 13. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons

of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter*. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725*;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any

such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 14. KRS 224A.070 is amended to read as follows:

The authority may carry out and perform the following essential governmental functions of statewide import and concern:

(1) To promulgate administrative regulations and adopt bylaws for the regulation of its affairs and the conduct of its business, which shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which the authority may act, together with other employees, including for example only, engineers, accountants, and attorneys, necessary and appropriate to enable the authority to fulfill its duties, functions, and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service and sewer service in the state, such tax to be equal to not more than two percent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for loans or grants;

(7) To lease an infrastructure project or make loans or grants to or purchase or refinance obligations of any governmental agency for the purpose of assisting the governmental agency in the construction of an infrastructure project. A lease, loan, or grant shall be in accordance with the terms and conditions of an assistance agreement by and between the authority and the governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, the real property or rights therein, including rights-of-way, easements and licenses, and the personal property reasonably deemed necessary to effectuate the development, implementation, financing, and construction or acquisition of any infrastructure project, and to make the properties available to a governmental agency in connection with an infrastructure project;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of the assistance agreements, and to use and employ the service charges in accordance with the provisions of this chapter, the service charges to constitute authority revenues;

(10) To enter into and enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer infrastructure projects financed by leases, loans or grants which have been undertaken by governmental agencies;

(11) To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this chapter***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(12) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(13) To borrow money and issue negotiable bonds and notes pursuant to this chapter;

(14) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(15) To contract with the federal government as to any infrastructure project;

(16) To participate with the federal government or any of its agencies, the state government or any of its agencies or political

subdivisions, or any other person in the construction or repair of any infrastructure project; and

(17) To have, possess, and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 15. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or

agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

(a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

(b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

(c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

(d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 16. KRS 248.480 is amended to read as follows:

(1) As used in this section:

(a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;

(b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;

(c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and

(d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.

(2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(3) The corporation shall be directed by a board of directors, which shall include:

(a) The Governor, who shall serve as chair of the corporation;

(b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;

(c) The Attorney General, who shall serve as secretary of the corporation;

(d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;

(e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;

(f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;

(g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and

(h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.

(4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.

(6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the settlement trust.

(7) The corporation's duties shall include, but not be limited to:

(a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;

(b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;

(c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;

(d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;

(e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;

(f) Submitting information required by the trustee of the settlement trust;

(g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions***. All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section; and

(i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary.

(8) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Section 17. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky Grain Insurance Corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the Commissioner of the Department of Agriculture, who shall serve as president; the Attorney General, who shall serve as secretary; the State Treasurer, who shall serve as treasurer; the State Auditor; two (2) representatives from the Kentucky Feed and Grain Association selected by the Commissioner; two (2) representatives from the Kentucky Farm Bureau Federation selected by the Commissioner; and two (2) representatives from the Kentucky National Farmers Organization selected by the Commissioner. The Commissioner of Agriculture, Attorney General, State Treasurer, and State Auditor may each designate a person to represent him. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the Commissioner from which the Commissioner shall make his appointments. The appointed members of the board shall serve until June 30, 1992. Thereafter, the appointed members of the board shall serve for a term of four (4) years or until their successor is appointed and qualified. Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the Department of Agriculture, the Attorney General, and the State Auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky Grain Insurance Fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the Commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

(4) All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 18. KRS 262.908 is amended to read as follows:

(1) The PACE board shall have the following responsibilities:

(a) Implementing a Purchase of Agricultural Conservation Easement Program in the Commonwealth as provided by this section, including the development and promulgation of any administrative regulations required;

(b) Making decisions in connection with each specific easement purchase to be made with Commonwealth funds from the agricultural enhancement fund;

(c) Evaluating, as necessary, potential sites within the Commonwealth on which agricultural conservation easements or other property interests are to be acquired, applying the criteria set forth in this section and administrative regulations; and

(d) Employing the staff necessary to implement the provisions of this section.

(2) (a) The PACE board shall establish fair, equitable, objective, nondiscriminatory procedures for determining easement purchase priorities.

(b) The board shall promulgate administrative regulations establishing policies and procedures for determining easement purchase priorities and for purchasing easements.

(c) The program criteria shall be designed to ensure that land is selected for easement purchase because it will make a significant contribution to agricultural production.

(3) Any contract made by or on behalf of the PACE board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 19. KRS 342.811 is amended to read as follows:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in KRS 342.823;

(7) Examine and adopt an annual operating budget for the authority;

(8) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(9) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(10) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(11) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(12) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(13) Pursuant to KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(14) Pursuant to KRS 342.823, assess policyholders;

(15) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(16) Approve a personnel policy subject to the provisions of KRS 342.813;

(17) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board***. All contracts made by or on behalf of the board shall be in writing. Any personal service contractor memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(18) Conduct annually an independent audit of the financial condition of the authority; and

(19) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of KRS 342.801 to 342.843.

The Committee Substitute to **HB 320** is as follows:

HB 320, AN ACT relating to public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.601 is amended to read as follows:

The board shall have all powers necessary and convenient to carry out its purposes, including the power to:

(1) Hold as trustee for the benefit of the people of Kentucky the lands of the hospital, custody and control of which, in that fiduciary capacity, are hereby transferred to the board. The lands shall remain in the board's trusteeship until they are disposed of in accordance with subsection (5) of this section;

(2) Solicit and accept appropriations, gifts, or grants from any public or private source, within or outside the Commonwealth, and expend those funds for any lawful purpose in order to administer, operate, maintain, or improve the lands of the hospital. The authority's funds shall be invested in accordance with KRS 42.500.

(3) Develop and revise a master plan for the use of the hospital lands in the public interest, and require that uses of the land, and any buildings or other improvements located on the land, comply with the master plan adopted by the board;

(4) Subject to the availability to the authority of sufficient funds:

  (a) Contract ***in writing*** through the Finance and Administration Cabinet, under KRS Chapters 45A and 56, for the removal of asbestos from buildings located on the hospital lands and for any other remedial action that may be needed to eliminate any hazardous or potentially hazardous, environmentally related condition or problem affecting the hospital lands;

  (b) Demolish any building or other structure located on the hospital grounds; and

(c) Renovate, remodel, repair, or reconstruct any building or other structure, located on the hospital grounds, that the authority deems to be of historic interest or of contemporary use consistent with community needs;

(5) In the sound exercise of its discretion, convey the hospital land in fee simple, or lease the land for a period of not more than ninety-nine (99) years, subject to terms and conditions that the board determines to be in the public interest, to a public entity for maintenance and use in accordance with the master plan adopted by the board under subsection (3) of this section. The secretary of the Finance and Administration Cabinet, with the approval of the Governor, shall execute the lease or deed on behalf of the Commonwealth, as required by KRS 45A.045(4);

(6) Employ, without regard to KRS Chapter 18A, or contract ***in writing***, in accordance with KRS Chapter 45A, for the services of accountants, attorneys, architects, engineers, contractors, and other consultants and employees that the board determines are required, and fix and pay their compensation from funds available to the board; and

(7) Promulgate administrative regulations, in accordance with KRS Chapter 13A, that the board deems necessary to facilitate the implementation of its powers under this section, adopt bylaws governing the internal operating policies and procedures of the board, and do all other things, perform all other acts, and take all other action the board determines to be necessary to carry out its purposes and authority under KRS 56.600 to 56.602.

Section 2. KRS 96.260 is amended to read as follows:

The board of waterworks shall be vested with all the authority and privileges, exercise all the franchises, and have possession, control, and management of all the property, of the corporation of which the consolidated local government or city owns all the stock. It may make contracts and sue and be sued, but only in the name of the corporation. ***Any contract made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.***

Section 3. KRS 148.563 is amended to read as follows:

(1) An executive director shall be appointed in accordance with KRS 12.050.

(a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.

(b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.

(2) The staff of the authority, including its executive director, shall be employees of the Tourism Development Cabinet.

(3) Any contract made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 4. KRS 151B.465 is amended to read as follows:

All powers, duties, and responsibilities conferred upon the corporation by KRS 151B.450 to 151B.475 shall be exercised by the board of directors of the corporation. They shall include, but shall not be limited to, the following:

(1) To establish and administer a program for providing low-interest loans to qualified borrowers through qualified lenders for the acquisition of assistive technology.

(2) To establish criteria for participation in the loan program as a qualified lender or qualified borrower and to establish the terms and conditions under which loans are to be made. The board shall contract with one (1) or more federal-approved or state-approved lending institutions for the purpose of making loans to qualified borrowers, the qualified borrower having been preapproved by the board consistent with criteria established by the board and promulgated in administrative regulations.

(3) To enter into agreements, contracts, or other documents with any federal, state, or local agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of KRS 151B.450 to 151B.475. ***All contracts made by or on behalf of the board of directors shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A. 690, shall be subject to KRS 45A.690 to 45A.725.***

(4) To accept for inclusion in the fund appropriations, grants, revenue sharing, devises, gifts, bequests, donations, federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(5) To incorporate a nonprofit organization pursuant to KRS Chapter 273 which qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, for the purpose of receiving tax-deductible gifts, donations, and bequests.

(6) To invest moneys from the fund with qualified lenders for the purposes of providing interest reductions, interest buy downs, and loan guarantees.

(7) To sue and be sued in its own name.

(8) To adopt an official seal and alter it as necessary.

(9) To promulgate administrative regulations through the cabinet and pursuant to KRS Chapter 13A to establish the policies and procedures under which the powers, duties, and responsibilities conferred by KRS 151B.450 to 151B.475 are to be carried out.

Section 5. KRS 154.33-535 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.33-501 to 154.33-585, including, but not limited to:

(1) Adopt and have a common seal and alter the same at pleasure;

(2) Sue and be sued in its own name and plead and be impleaded;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.33-501 to 154.33-585***. All contracts and agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.33-550;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, and in such manner and under terms as may be provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds; however, any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; however, the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as may be deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services at any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform other and further acts as may be necessary to carry out the corporation functions and purposes as explicitly stated or implied by KRS 154.33-501 to 154.33-585.

Section 6. KRS 154.33-605 is amended to read as follows:

(1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) Five (5) members of the board shall constitute a quorum, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations governing the operation, maintenance, or use of property under its custody and control in accordance with KRS Chapter 13A.

(5) Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at the board's pleasure.

  (a) The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.

  (b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all of the documents, which shall be public records under KRS 61.870 to 61.884.

(8) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be

entitled to the requirements and benefits provided to other system participants.

(9) All contracts made by or on behalf of the corporation shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 7. KRS 154.40-040 is amended to read as follows:

(1) The board may develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.

(5) Minutes and records of all meetings of the board shall be kept, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at its pleasure.

  (a) The executive director shall act under the direction of the board in employing necessary staff to perform the corporation's duties and exercise its powers.

  (b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.

(8) All contracts made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 8. KRS 154.85-035 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.85-001 to 154.85-085, including, but not limited to:

(1) Have a common seal which may be altered at will;

(2) Sue and be sued, and complain and defend in its corporate name;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.85-001 to 154.85-085, including, but not limited to, contracting with other agencies for the performance of its functions, and contracting with the Cabinet for Economic Development, or its successor, in the performance of specific state economic development functions and activities***. All contracts and agreements made by or on behalf of the corporation shall be in writing. All personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.85-050;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds and bond anticipation notes or other obligations payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, in the manner and under terms as provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation, and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds, but any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities, but the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in amounts, and from insurers, as deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services to any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform any other acts necessary to carry out the corporation's functions and purposes as explicitly stated or implied by KRS 154.85-001 to 154.85-085.

Section 9. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the Natural Resources and Environmental Protection Cabinet and the Labor Cabinet on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the Labor Cabinet regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities***. All contracts and agreements made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 10. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

    (a) Sue and be sued in its corporate name;

    (b) Adopt a corporate seal and a symbol;

    (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

    (d) Appoint agents upon which process may be served;

    (e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

    (f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

    (g) Make, execute, and effectuate any and all agreements or contracts including:

        1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to

cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service ***and memoranda of agreement, as defined in KRS 45A.690,*** shall be reviewed in accordance with KRS 45A.690 to 45A.725.

2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

All contracts and agreements made by or on behalf of the corporation shall be in writing.

(2) The corporation shall:

(a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

(b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period;

(c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;

(f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

(g) The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and

(h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

Section 11. KRS 164A.060 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

(1) To make or participate in the making of insured student loans.

(2) To purchase or participate in the purchase of insured student loans, which purchase may be from eligible lenders.

(3) To sell or participate in the sale of insured student loans, which sale may be to eligible lenders or to the student loan marketing association.

(4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced insured student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.

(5) To procure insurance in respect of all student loans made or purchased by the corporation.

(6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any insured student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.

(7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and

such other expenses as are necessary or incident to any such borrowing.

(8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.

(9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of this chapter. ***All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725, except that agreements among the corporation and the Kentucky Higher Education Assistance Authority, the Kentucky Educational Savings Plan Trust, and the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund, necessary or appropriate to facilitate their shared staff functions, joint operation, common administration, and combined management under identical boards of directors and a common executive director, shall be excluded from the definition of a memorandum of agreement pursuant to KRS 45A.690(1)(d).***

(10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(11) To sue and be sued in its own name and to plead and be impleaded.

(12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.

(13) To adopt an official seal and alter the same at pleasure.

(14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

(15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.

(16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.

(17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.

(18) To service and collect educational loans for other lenders, holders, and educational institutions.

Section 12. KRS 175.450 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate, and regulate turnpike projects at such locations within the Commonwealth as may be determined by the authority and the department and provided for in an agreement or agreements;

(2) To acquire sites abutting on any turnpike project, as a part of such project, and to construct or contract for the construction of buildings and appurtenances for service stations, garages, restaurants and other services and to lease the same to parties other than the department for any of such purposes (or, if leases to such parties cannot be made on acceptable terms, to operate or to lease to the department any or all of the same) in such manner and under such terms as may be provided in an agreement;

(3) To issue turnpike revenue bonds of the authority payable solely from the tolls, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any one or more turnpike projects, and to refund any of its bonds;

(4) To fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it, except to the extent that such powers are surrendered to the department pursuant to a lease;

(5) To combine for financing purposes any two (2) or more turnpike projects;

(6) To lease as lessor any turnpike project or projects to the department as lessee, pursuant to the terms and provisions of a lease;

(7) To establish and enforce rules and regulations for the use of any turnpike project, except during any period when such powers are provided to be exercised by the department pursuant to a lease;

(8) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same, with the approval of the department;

(9) To designate the locations and establish, limit and control such points of ingress to and egress from each turnpike project as the authority and the department may determine to be necessary or desirable to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(10) To make and enter into such contracts and agreements with the department and other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter. ***All contracts and***

agreements made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725;

(11) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) To receive and accept from the Commonwealth, the department, and any federal agency, grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(13) To expend any funds provided under the authority of this chapter in advertising the facilities and services of a turnpike project or projects to the traveling public; and

(14) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Section 13. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person,

corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter***.*** ***All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate-income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 14. KRS 224A.070 is amended to read as follows:

The authority may carry out and perform the following essential governmental functions of statewide import and concern:

(1) To promulgate administrative regulations and adopt bylaws for the regulation of its affairs and the conduct of its business, which shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which the authority may act, together with other employees, including for example only, engineers, accountants, and attorneys, necessary and appropriate to enable the authority to fulfill its duties, functions, and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service and sewer service in the state, such tax to be equal to not more than two percent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for loans or grants;

(7) To lease an infrastructure project or make loans or grants to or purchase or refinance obligations of any governmental agency for the purpose of assisting the governmental agency in the construction of an infrastructure project. A lease, loan, or grant shall be in accordance with the terms and conditions of an assistance agreement by and between the authority and

the governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, the real property or rights therein, including rights-of-way, easements and licenses, and the personal property reasonably deemed necessary to effectuate the development, implementation, financing, and construction or acquisition of any infrastructure project, and to make the properties available to a governmental agency in connection with an infrastructure project;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of the assistance agreements, and to use and employ the service charges in accordance with the provisions of this chapter, the service charges to constitute authority revenues;

(10) To enter into and enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer infrastructure projects financed by leases, loans or grants which have been undertaken by governmental agencies;

(11) To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this chapter***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(12) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(13) To borrow money and issue negotiable bonds and notes pursuant to this chapter;

(14) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(15) To contract with the federal government as to any infrastructure project;

(16) To participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any infrastructure project; and

(17) To have, possess, and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 15. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

(a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

(b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

(c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

(d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the

interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 16. KRS 248.480 is amended to read as follows:

(1) As used in this section:

(a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;

(b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;

(c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and

(d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.

(2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(3) The corporation shall be directed by a board of directors, which shall include:

(a) The Governor, who shall serve as chair of the corporation;

(b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;

(c) The Attorney General, who shall serve as secretary of the corporation;

(d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;

(e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;

(f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;

(g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and

(h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.

(4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.

(6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the settlement trust.

(7) The corporation's duties shall include, but not be limited to:

(a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;

(b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;

(c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;

(d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;

(e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;

(f) Submitting information required by the trustee of the settlement trust;

(g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions. ***All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section; and

(i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary.

(8) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Section 17. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky Grain Insurance Corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the Commissioner of the Department of Agriculture, who shall serve as president; the Attorney General, who shall serve as secretary; the State Treasurer, who shall serve as treasurer; the State Auditor; two (2) representatives from the Kentucky Feed and Grain Association selected by the Commissioner; two (2) representatives from the Kentucky Farm Bureau Federation selected by the Commissioner; and two (2) representatives from the Kentucky National Farmers Organization selected by the Commissioner. The Commissioner of Agriculture, Attorney General, State Treasurer, and State Auditor may each designate a person to represent him. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the Commissioner from which the Commissioner shall make his appointments. The appointed members of the board shall serve until June 30, 1992. Thereafter, the appointed members of the board shall serve for a term of four (4) years or until their successor is appointed and qualified. Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the Department of Agriculture, the Attorney General, and the State Auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky Grain Insurance Fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the Commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

(4) All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 18. KRS 262.908 is amended to read as follows:

(1) The PACE board shall have the following responsibilities:

(a) Implementing a Purchase of Agricultural Conservation Easement Program in the Commonwealth as provided by this section, including the development and promulgation of any administrative regulations required;

(b) Making decisions in connection with each specific easement purchase to be made with Commonwealth funds from the agricultural enhancement fund;

(c) Evaluating, as necessary, potential sites within the Commonwealth on which agricultural conservation easements or other property interests are to be acquired, applying the criteria set forth in this section and administrative regulations; and

(d) Employing the staff necessary to implement the provisions of this section.

(2) (a) The PACE board shall establish fair, equitable, objective, nondiscriminatory procedures for determining easement purchase priorities.

(b) The board shall promulgate administrative regulations establishing policies and procedures for determining easement purchase priorities and for purchasing easements.

(c) The program criteria shall be designed to ensure that land is selected for easement purchase because it will make a significant contribution to agricultural production.

(3) Any contract made by or on behalf of the PACE board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 19. KRS 342.811 is amended to read as follows:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in KRS 342.823;

(7) Examine and adopt an annual operating budget for the authority;

(8) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(9) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(10) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(11) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(12) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(13) Pursuant to KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(14) Pursuant to KRS 342.823, assess policyholders;

(15) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(16) Approve a personnel policy subject to the provisions of KRS 342.813;

(17) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board***. All contracts made by or on behalf of the board shall be in writing. Any personal service contractor memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(18) Conduct annually an independent audit of the financial condition of the authority; and

(19) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of KRS 342.801 to 342.843.

HB 493, AN ACT relating to nonsmoking in public areas of the Capitol and Capitol Annex.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) As of the effective date of this Act, there shall be no smoking in public areas of the Capitol or Capitol Annex, except as permitted in subsection (2) of this section. For purposes of this section, "public area" means any hallway, office shared by more than one (1) person or office in which a visitor may be expected, stairwell, restroom, meeting room, or conference room.

(2) The Legislative Research Commission shall designate one (1) or more smoking areas in the Capitol and one (1) or more smoking areas in the Capitol Annex. Each smoking area shall be an isolated and enclosed area that is not a public area, is clearly designated as a smoking area, and is maintained by a ventilation system that does not disburse the smoke or smoke byproducts into any other area of the Capitol or Capitol Annex.

Section 2. KRS 61.165 is amended to read as follows:

Except as otherwise specified for the Capitol and Capitol Annex in Section 1 of this Act, a policy for smoking in governmental office buildings or workplaces may be adopted by state, county, municipal, special district, or urban-county governments.

(1) *Except as otherwise specified for the Capitol and Capitol Annex in Section 1 of this Act,* any policy relating to smoking in state office buildings or workplaces shall:

  (a) Be by executive order of the Governor or action of the General Assembly;

  (b) Require the governmental authority to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and

  (c) Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority.

(2) Any policy relating to smoking in governmental office buildings or workplaces of counties, municipalities, special districts, or urban-county governments shall:

  (a) Be adopted by the legislative body of the government;

  (b) Be in writing;

  (c) Require the government authority to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and

  (d) Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority.

(3) This section shall not apply to state universities, state-operated hospitals and residential facilities for the mentally ill and the mentally retarded, state-operated veterans' nursing homes and health facilities, and jails or detention facilities.

HB 588, AN ACT providing for the creation of the Governor's Advisory Council on Minority Affairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The Governor's Advisory Council for Minority Affairs (GACMA) is created to enhance minority access to government programs and to enable the Governor's administration to be more responsive to the needs of Kentucky's minority community. The GACMA is attached to the Office of the Governor for administrative purposes.

(2) The functions of the GACMA shall be to:

  (a) Research and participate in the development of policies related to economic empowerment, education, health care, housing, government services, and criminal justice;

  (b) Suggest methods to maximize economic opportunity for minorities in Kentucky;

  (c) Suggest methods to close the academic achievement gap between minority and nonminority students;

  (d) Review minority access to quality health care facilities and assist in distributing to minorities valuable health care information, including but not limited to prenatal, infant health care, nutrition, and physical fitness information;

  (e) Review fair housing opportunities and make recommendations in an effort to increase home ownership within the minority community;

  (f) Assist in informing minorities of government services and offer to assist communities in the fair administration

and delivery of services; and

(g) Review minority treatment within the criminal and juvenile justice system in regard to offenses, sentences, and substance abuse programs.

(3) The membership of the GACMA shall consist of fifteen (15) members, including the following:

(a) The Governor or the Governor's designee;

(b) The secretaries of the following cabinets or their designees:

1. Economic Development;

2. Education, Arts and Humanities;

3. Cabinet for Families and Children;

4. Public Protection and Regulation;

5. Finance and Administration; and

6. Justice;

(c) One (1) member from each of the seven (7) Supreme Court districts, representing education, business, and community organizations, to be appointed by the Governor; and

(d) One (1) member representing an education, business, or community organization, to be appointed by the Governor and selected from the state at large.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that three (3) members shall serve a two (2) year term, three (3) members shall serve a three (3) year term and two (2) members shall serve a four (4) year term from the dates of initial appoinment. The Governor shall designate one (1) member to serve as chair of the council. The GACMA may elect by majority vote a vice chair and other officers as may be deemed necessary.

(5) No member of the GACMA shall receive a salary, fee, or other remuneration for services as a member of the GACMA, but each member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to implementation of the provisions of this section.

(6) The GACMA shall meet at the call of the Governor or the chair, but not less often than four (4) times during each calendar year. A majority of the membership of the council shall constitute a quorum.

(7) By October 1 of each year, the council shall submit a report to the Governor and the Legislative Research Commission documenting:

(a) Dates and agendas of council meetings;

(b) Accomplishments of the council in fulfilling its statutory charge; and

(c) Specific suggestions of ways to improve government programs for minorities and increase minority access to government programs.

(8) The GACMA shall use, so far as practical and subject to the approval of the Governor, secretarial and clerical staff of the Office of the Governor to carry out the provisions of this section.

HCR 161, A CONCURRENT RESOLUTION urging the United States Congress to enact legislation to exclude a portion of retirement income from federal income tax.

WHEREAS, the Social Security Administration reports that there are more than 34 million retired workers currently in the United States; and

WHEREAS, the average household income for retirees over the age of 65 is only slightly more than $20,000; and

WHEREAS, two-thirds of retirees' income goes toward food, housing, and transportation; and

WHEREAS, health care is the fourth largest expenditure for retirees; and

WHEREAS, retirees are being asked to shoulder an increasing portion of rising health care costs as a result of 10% of large employers terminating health insurance benefits for new retirees last year, 71% increasing the amount the retiree was required to pay for health insurance, and 62% reporting that they are likely to further increase retirees' share of health insurance in the next three years; and

WHEREAS, it is important to have public policy that provides adequate financial support for the retired and elderly; and

WHEREAS, the elimination of the federal income tax on pensions may help alleviate cost concerns;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the United States Congress to enact legislation to exclude from federal income tax the first $25,000 in retirement income from sources other than Social Security.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to each member of Kentucky's Congressional delegation.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Council of State Governments, P. O. Box 11910, Lexington, KY 40578-1910.

Motions, Petitions, and Communications (Continued)

Representative Hoffman moved that **HB 548** be withdrawn. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 290**. Agreed.

Representative Pullin moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Pullin moved that she be recorded as voting "yea" on the motion to consider the Discharge Petition on **HB 32** and "yea" on the motion to suspend the rules to adopt the Discharge Petition on **HB 223**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "nay" on **HB 290**. Agreed.

Representative Cornett moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cornett moved that he be recorded as voting "yea" on **HB 577**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 251**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **HCR 17**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 288, 528,** and **251**. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 336**, by Representative Nelson:

HB 336, On page 2, line 17, after "dog", by deleting "***, cat, or ferret***"; and
On page 2, line 20, after "dog", by deleting "***, cat, or ferret***"; and
On page 2, line 24, after "dog", by deleting "***, cat, or***"; and
On page 2, line 25, before "vaccinated", by deleting "***ferret***"; and
On page 3, by deleting lines 15 and 16 in their entirety; and
On page 3, line 18, after "dog", by deleting "***, cat, or ferret***"; and
On page 3, line 19, after "dog", by deleting "***, cat, or ferret***"; and
On page 3, line 23, after "vaccination", by deleting the new language through the end of the line; and
On page 3, line 24, by deleting all the new language before "."; and
On page 3, line 25, after "dog", by deleting "***, cat, or ferret***"; and
On page 4, line 12, after "***dog***", by deleting "***, cat, or ferret***"; and
On page 4, line 17, after "dog", by deleting "***, cat, or ferret***"; and
On page 4, line 18, after "dog", by deleting "***, cat, or ferret***"; and
On page 17, line 2, after "***dog***", by deleting "***, cat, or ferret***".

Floor Amendment No. 4 to **HCR 17**, by Representative Marzian:

HCR 17, On page 1, at the end of the second "WHEREAS" clause after "legislative bodies;", by inserting the following:
"and
WHEREAS, it is the opinion of this General Assembly that there should only be households composed of one male and

one female joined in matrimony, and that households or other living arrangements comprising persons of the same sex pose a clear and present danger to the morals, virtues and values of our nation; and

WHEREAS, the federal government should legislate precisely who should and should not live in a household, using the strictest of language so as to prevent the sensibilities of others from being unduly harmed by even the appearance of impropriety;" and

On page 1, between lines 4 and 5, by inserting the following:

"Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein, urges the Congress of the United States to enact federal laws to prevent legislators of the same sex from cohabitating or otherwise utilizing the same rooming arrangements to dwell together, for any period of time, so as to avoid the appearance of impropriety."; and

On page 1, line 5, by deleting "Section 2." and inserting "Section 3." in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 436**, by Representative Montell:

HB 436, On page 1, line 11, after "(2)" by inserting "*(a)*"; and

On page 1, after line 25, by inserting the following:

"*(b) The commission shall allot an additional five hundred dollars ($500) annually to each qualifying fire department if fifty percent (50%) or more of the firefighters in that fire department complete at least twenty-five (25) hours each of continuing education each year.*".

Floor Amendment No. 12 to the Committee Substitute to **HB 540**, by Representative Marzian:

HB 540, On page 8, line 18, after "2.", by deleting all new language through the end of line 20 and inserting in lieu thereof:

"*All incidences of bullying of a student by another student, school employee, or volunteer resulting in disciplinary action, including reporting by category of prejudice, incidences of bullying that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, sexual orientation, gender identity, ethnicity, or disability, or because of the victim's association with an individual who falls into one of the protected categories;*".

Floor Amendment No. 2 to **HB 461**, by Representative Coleman:

HB 461, On page 6, between lines 10 and 11, by inserting the following:

"Section 5. KRS 227A.060 is amended to read as follows:

(1) The department shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:
  (a) Has paid to the department the application fee not to exceed two hundred dollars ($200) and the appropriate examination fee, which shall not exceed the actual cost of examination;
  (b) Has achieved a passing score, as set by the department, on all portions of the examination required by the department. The department shall promulgate administrative regulations to specify who shall take the examination if the applicant is a business entity; and
  (c) Has submitted proof that he or she has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).
(2) The department shall issue a license as a "master electrician" to an applicant who meets the following requirements:
  (a) Has paid to the department the application fee not to exceed one hundred dollars ($100) and the appropriate examination fee not to exceed the actual cost of the examination;
  (b) Has completed:
    1. Six (6) years of verifiable experience in the electrical trade; and
    2. A training course in electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and
  (c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.
(3) The department shall issue a license as an "electrician" to an applicant who meets the following requirements:
  (a) Has paid to the department the application fee not to exceed fifty dollars ($50) and the appropriate examination fee not to exceed the actual cost of the examination;

(b) Has completed ***either***:

1. ***a.*** Four (4) years of verifiable experience in the electrical trade; and

b.~~[2]~~A training course in electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; ***or***

2. A postsecondary electrical program that culminates in the granting of a diploma or degree. The program offered shall be substantially equivalent to a an electrical program approved by the Council on Postsecondary Education for the granting of an associate degree by a technical institution under KRS Chapter 164; and

(c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department."; and

On page 6, line 11, after "Section" by deleting "5" and inserting "6" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 535**, by Representative Barrows:

HB 535, On page 1, line 11, after "***Kentucky,***" by deleting "***and***"; and

On page 1, line 11, after "***General***" by inserting "***, and the Secretary of State***"; and

On page 1, line 17, after "***(3)***" by inserting "***(a)***"; and

On page 1, between lines 19 and 20 by inserting the following:

"***(b) The Commonwealth shall not advertise or display the name, business identification symbol, brand, trademark, plaque, or any combination thereof of a private or corporate contributor on state property in return for a contribution to the trust fund, and no part of the Capitol structure, furnishings, or grounds shall be named after a private or corporate contributor to the trust fund. Nothing shall prohibit the contributor from mentioning the contributor's donation to the trust fund in its publications or advertisements.***"; and

On page 2, line 2, after "***report***", the second time that word appears on line 2, by inserting "***and a complete and accurate list of the names of all contributors to the trust fund,***"; and

On page 2, line 4, after "***Justice,***" by deleting "***and***"; and

On page 2, line 5, after "***General***" by inserting "***, and the Secretary of State***".

Floor Amendment No. 1 to **HR 188**, by Representative Hoover:

HR 188, On page 1, beginning after the title and continuing up to "NOW, THEREFORE," on page 2, by deleting all "WHEREAS" clauses and inserting the following in lieu thereof:

"WHEREAS, "6-1-1" is an easy-to-remember telephone number that facilitates critical connections between individuals and families and the governmental agencies responsible for oversight of programs affecting them; and

WHEREAS, there are over 4,000,000 citizens of the Commonwealth of Kentucky in families that work and pay taxes, and all of these citizens are affected by the actions of state and local government on a daily basis; and

WHEREAS, each citizen of the Commonwealth is interested in reporting government waste, fraud, abuse, and inefficiency; and

WHEREAS, 6-1-1 will reduce the number of wasteful, fraudulent, and abusive actions and programs within the Commonwealth; and

WHEREAS, 6-1-1 is an efficient and cost-effective system that will support the reporting of government waste, fraud, abuse, and efficiency; and

WHEREAS, 6-1-1 will streamline access to agencies and officials with oversight responsibility for the proper and efficient management of government;"; and

On page 2, by deleting lines 1 through 4 in their entirety and inserting the following in lieu thereof:

"Section 1. The General Assembly urges the Executive Branch of the Commonwealth to facilitate the development of a 6-1-1 system for the reporting of waste, fraud, and abuse in state and local government.".

Floor Amendment No. 2 to **HB 398**, by Representative Horlander:

HB 398, On page 1, lines 1 through 20, by deleting them in their entirety; and

On page 1, at line 21, by deleting "Section 2." and inserting "Section 1." in lieu thereof; and

On page 1, at line 25, before the word "local", by inserting the word "***county***"; and

On page 1, at line 25, by bracketing and striking through the word "local"; and

On page 2, at line 6, after the word "office.", by inserting the following new paragraph:

"***(c) Unless a number of candidates equal to or greater than the number of positions to be filled file petitions for nomination for an independent board of education opening pursuant to KRS 118.315, the chief state school officer shall fill the new term of office for all openings that have no candidate filings under KRS 118.315 by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.***".

Floor Amendment No. 1 to **HB 398**, by Representative Hoover:

HB 398, On page 4, after line 23, by inserting the following new section:

"Section 3. KRS 160.180 is amended to read as follows:

(1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(2) No person shall be eligible to membership on a board of education:

- (a) Unless he has attained the age of twenty-four (24) years; and
- (b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and
- (c) Unless he has completed at least the twelfth grade or has been issued a GED certificate or has received a high school diploma through participation in the external diploma program and he is elected after July 13, 1990; and
- (d) An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; or
- (e) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or
- (f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or
- (g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or
- (h) Who has been removed from membership on a board of education for cause; or
- (i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member***; or***
- ***(j) Who has a member of his or her immediate family who is a member of the General Assembly or an elected county officer, and for purposes of this paragraph, "immediate family" means spouse, children, grandchildren, parents, grandparents, brothers and sisters***.

(3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section, or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

(4) A board member shall be eligible for reelection unless he becomes disqualified.

(5) The annual in-service training requirements for all school board members shall be as follows:

- (a) Twelve (12) hours for school board members with zero to three (3) years of experience;
- (b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and
- (c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement.

Floor Amendment No. 1 to **HR 155**, by Representative Hoover:

HR 155, On page 2, line 4 after "Section 2." by inserting the following:

"This honorable body urges the United States Congress to define marriage as the union of a man and a woman.

Section 3.".

Floor Amendment No. 2 Title to **HR 155**, by Representative Hoover:

HR 155, Change title to read as follows:

"A RESOLUTION urging the United States Congress to take various actions related to marriage and benefits.".

Floor Amendment No. 9 to the Committee Substitute 3 to **HB 172**, by Representative Hoover:

HB 172, On page 4, by deleting lines 9 and 10 in their entirety and inserting the following in lieu thereof:

"*1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the Kentucky Employees Charitable Campaign).*
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Employees Charitable Campaign)."

Floor Amendment No. 1 to the Committee Substitute to **HB 519**, by Representative Barrows:

HB 519, On page 6, line 16, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 27, line 26, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 28, line 18, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 30, line 14, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 30, lines 17 and 18, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 53, line 7, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 54, line 3, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 57, line 8, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 71, lines 8 and 9, by removing the strikethroughs and brackets from the words "~~[from the State Treasurer's office]~~";

On page 71, line 15, by removing the strikethroughs and brackets from the words "~~[issued by the State Treasurer]~~";

On page 73, line 26, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 74, lines 11 and 12, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 74, line 24, by deleting the word "***system***" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 89, lines 2 through 8, by removing the beginning bracket and strikethroughs; and

On page 89, line 9, by removing the strikethroughs on "~~(2)]~~" and the closing bracket.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 251, Representative Denham

HB 261, Representative Marzian

HB 435, Representative Nunn

HB 436, Representative Nunn

HB 483, Representative Pasley

HB 519, Representative Feeley

HB 577, Representatives Cornett and B. Smith

HB 627, Representative Horlander

HB 648, Representative Crimm

HB 659, Representative S. Lee

HB 662, Representative Haydon

HB 685, Representative Marzian

HB 700, Representative Crimm

HB 704, Representative Marzian

HCR 4, Representative Reinhardt

HCR 17, Representatives Marcotte, Fischer, Walton, B. Smith, Bruce, Cornett, Damron, Collins, Kerr, Ford, and Mobley

HR 213, Representative Napier

Announcements

The following meetings were announced:

Committee on Education: Wednesday, March 3, 2004, 7:57 a.m.

Committee on Tourism Development and Energy: Wednesday, March 3, 2004, 8:25 a.m., Room 125

Committee on Banking and Insurance: Wednesday, March 3, 2004, 10:00 a.m.

Budget Review Subcommittee on Transportation: Wednesday, March 3, 2004, meeting canceled

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, March 3, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 3, 2004, was adopted by voice vote.

WEDNESDAY, MARCH 3, 2004

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 2, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 135**

Education: **SB 115**

Seniors, Military Affairs, and Public Safety: **HCR 223**

House Floor: **HR 221, 222**

Report of Committees

The Committee on Tourism Development and Energy reported **HB 490**, with Committee Substitute attached thereto, **HB 524,** and **SB 118** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 490, AN ACT relating to distributed and environmentally sustainable generation of electricity.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds as follows:

(1) The generation of electricity by customers and independent power producers using environmentally sustainable technologies distributed throughout the Commonwealth can encourage private investment in sustainable energy resources, reduce electrical transmission and distribution losses, improve the efficiency, reliability, and resilience of the electric grid, reduce pollution, diversify the Commonwealth's energy sources, and help lay the groundwork for the sustained, orderly development of an alternative energy industry in the Commonwealth of Kentucky; and

(2) It is advantageous to the Commonwealth to reduce interconnection and administrative costs by modifying existing billing and metering practices that may unnecessarily impede environmentally sustainable, distributed generation by customers and independent power producers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Retail electric supplier" means any a corporation, power authority, rural electric cooperative, municipal utility, or other person that owns, operates, manages or controls any plant or equipment in Kentucky for the distribution or furnishing of electricity to retail customers, regardless of whether subject to the jurisdiction of the commission;

(2) "Eligible customer-generator" means a customer who owns and operates an electrical generating facility that is located on the customer's premises, is interconnected to and operates in parallel with the electric grid, is intended primarily to offset part or all of the customer's own electricity requirements, and generates electricity using one or more of the following technologies: solar, hydroelectric, wind, landfill gas, or biogas generated from the anaerobic digestion of agricultural wastes; or a fuel cell fueled by hydrogen, methane, or methanol; or a combined heating and power system or combined heating, refrigeration, and power system that is fueled by hydrogen, methane, natural gas, or propane.

(3) "Independent green power producer" means a corporation or other person that:

(a) Is not subject to the jurisdiction of the Commission; and

(b) Generates electricity in Kentucky using one or more of the following technologies: solar, hydroelectric, wind, landfill gas, or biogas generated from the anaerobic digestion of agricultural wastes; or a fuel cell fueled by hydrogen, methane, or methanol.

(4) "Kilowatt hour" means a measure of electricity defined as a unit of work of energy, measured as one (1) kilowatt of power expended for one (1) hour.

(5) "Net metering" means measuring the difference between the electricity supplied by the electric grid and the electricity generated by an eligible customer-generator that is fed back to the electric grid over a billing period.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Each retail electric supplier shall make net metering available to any eligible customer-generator whom the supplier currently serves or solicits for service.

(2) An eligible customer-generator shall be provided a single meter, capable of registering the flow of electricity in two (2) directions for the net metering service with the cost of the net meter being borne by the retail electric supplier. Any additional meter or meters used to monitor the flow of electricity in each direction may be installed with the consent of the eligible customer-generator. The expense of any additional meter or meters shall be borne by the retail electric supplier. If additional meters are installed, the net metering calculation shall yield the same result as when a single meter is used.

(3) The amount of electricity billed to the eligible customer-generator using net metering shall be calculated by taking the difference between the electricity supplied by the electric grid to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over an annual billing period. If time-of-day or time-of-use metering is used, then the electricity fed back to the electric grid shall be valued at the eligible customer-generator's retail price of electricity at the specific time it is generated and fed back to the electric grid.

(4) Each net metering contract or tariff shall be identical, with respect to energy rates, rate structure, and monthly charges, to the contract or tariff to which the same customer would be assigned if the customer were not an eligible customer-generator. Any new or additional demand, stand-by, minimum monthly, or other charges that would serve to increase an eligible customer-generator's minimum monthly charge to an amount greater than that of other customers in the rate class to which the eligible customer-generator would otherwise be assigned are prohibited, and shall not be included as part of net metering contract or tariff.

(5) The billing period during which the net electricity measurement is calculated shall be annualized. For the purposes of this section, an annualized billing period shall require the retail electric supplier to carry forward as a credit on the customer's bill any electricity generated and returned to the grid by the eligible customer-generator. Annualized billing shall not be construed to prohibit or interfere with a retail electric supplier's requirement to submit a monthly bill to the eligible customer-generator. The provisions of paragraphs (a) to (d) of this subsection shall apply to the annualized net electricity measurement:

(a) The net electricity produced or consumed on a monthly basis shall be read, recorded, and measured in accordance with metering practices prescribed by the commission;

(b) Where the electricity supplied by the electric grid exceeds the electricity generated by the customer-generator during the month, the customer-generator shall be billed for the net electricity supplied in accordance with subsection (4) of this section;

(c) Where the electricity generated by the customer-generator exceeds the electricity supplied by the electric grid, the customer-generator shall be credited for the excess electricity generated in accordance with subsection (4) of this section. This electricity credit shall appear on the next monthly bill; and

(d) At the end of the annual period, payment shall be issued to the customer-generator for any remaining unused credit for the excess electricity generated during the prior year.

(6) Electric generating systems used by eligible customer-generators shall meet all applicable safety and power quality standards established by the National Electrical Code (NEC), Institute of Electrical and Electronics Engineers, and accredited testing laboratories, including but not limited to Underwriters Laboratories.

(7) A retail electric supplier may not require an eligible customer-generator whose electric generating system meets the standards of subsection (6) of this section to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

(8) The commission may promulgate administrative regulations to adopt additional control and testing requirements for eligible customer-generators that the commission deems necessary to protect public safety and system reliability.

(9) Any dispute between a retail electric supplier and an eligible customer-generator regarding the interpretation of this section shall be resolved by the commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Each retail electric supplier shall pay a rate of four cents ($0.04) per kilowatt-hour for all net electricity delivered by an Independent Green Power producer to the electric grid in its service territory between 6:00 AM and 9:59 PM on

Monday through Friday, and shall pay a rate of two cents ($0.02) per kilowatt-hour for all net electricity delivered by an Independent Green Power producer to the electric grid in its service territory at all other times. The commission shall annually adjust these rates for inflation by the percentage change between Kentucky's December year-to-date electric utility average revenue per kilowatt-hour to ultimate consumers, all sectors, of the two (2) most recent years, as reported by the U.S. Energy Information Administration.

(2) Solely for the purposes of implementing and enforcing a net metering program, the commission shall retain limited jurisdiction over net metering programs of municipal corporations that provide retail electric service to eligible customer-generators.

(3) The commission shall have original jurisdiction over any dispute between a retail electric supplier and an eligible customer-generator, including an independent green power producer, as to rates, service, standards, performance of contracts for net metering, reimbursement rate for electricity supplied into the grid from an independent green power producer, and testing of net meters. The commission may investigate complaints brought by the retail electric supplier or an eligible customer-generator. Any decision made by the commission to resolve a dispute between a retail electric supplier and eligible customer-generator may be appealed to Franklin Circuit Court.

(4) The commission shall promulgate administrative regulations to implement the provisions of Sections 1 to 4 of this Act.

(5) The penalties for willful violation of the provisions of Sections 1 to 4 of this Act by a retail electric supplier or by an eligible customer-generator shall be the same as the fines imposed under KRS 278.990(1).

SECTION 5. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of this chapter to the contrary, the commission shall have jurisdiction over net metering contracts between a city and any eligible customer-generator served. Jurisdiction shall include the review and enforcement of rates, service standards, metering standards, complaints and disputes between the city and the eligible customer-generator but limited solely to the provision of net metering service. As used in this section:

(1) "Commission" means the Kentucky Public Service Commission;

(2) "Eligible customer-generator" means a customer who owns and operates an electrical generating facility that is located on the customer's premises, is interconnected to and operates in parallel with the electric grid, is intended primarily to offset part or all of the customer's own electricity requirements, and generates electricity using one or more of the following technologies: solar, hydroelectric, wind, landfill gas, or biogas generated from the anaerobic digestion of agricultural wastes; or a fuel cell fueled by hydrogen, methane or methanol; or a combined heating and power system or combined heating, refrigeration and power system that is fueled by hydrogen, methane, natural gas, or propane.

(3) "Net metering" means measuring the difference between the electricity supplied by the electric grid and the electricity generated by an eligible customer-generator that is fed back to the electric grid over a billing period.

The Committee Substitute to **HB 490** is as follows:

HB 490, AN ACT relating to distributed and environmentally sustainable generation of electricity.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Eligible customer-generator" means a customer of a retail electric supplier who owns and operates an electric generating facility that is located on the customer's premises, for the primary purpose of supplying all or part of the customer's own electricity requirements.

(2) "Eligible electric generating facility" means an electric generating facility that:

- *(a) Is connected in parallel with the electric distribution system;*
- *(b) Generates electricity using solar energy; and*
- *(c) Has a rated capacity of not greater than fifteen (15) kilowatts.*

(3) "Kilowatt hour" means a measure of electricity defined as a unit of work of energy, measured as one (1) kilowatt of power expended for one (1) hour.

(4) "Net metering" means measuring the difference between the electricity supplied by the electric grid and the electricity generated by an eligible customer-generator that is fed back to the electric grid over a billing period.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Each retail electric supplier shall make net metering available to any eligible customer-generator that the supplier currently serves or solicits for service. If the cumulative generating capacity of net metering systems reaches one tenth of one percent (0.1%) of a supplier's single hour peak load during the previous year, the obligation of the supplier to offer net metering to a new customer-generator may be limited by the commission.

(2) Each retail electric supplier serving a customer with eligible electric generating facilities shall use metering that is

capable of registering the flow of electricity in two (2) directions. Any additional meter used to monitor the flow in each direction shall be installed at the customer-generator's expense. If additional meters are installed, the net metering calculation shall yield the same result as when a single meter is used.

(3) The amount of electricity billed to the eligible customer-generator using net metering shall be calculated by taking the difference between the electricity supplied by the retail electric supplier to the customer and the electricity generated and fed back by the customer. If time-of-day or time-of-use metering is used, the electricity fed back to the electric grid by the eligible customer-generator shall be net-metered and accounted for at the specific time it is fed back to the electric grid in accordance with the time-of-day or time-of-use billing agreement currently in place.

(4) Each net metering contract or tariff shall be identical, with respect to energy rates, rate structure, and monthly charges, to the contract or tariff to which the same customer would be assigned if the customer were not an eligible customer-generator.

(5) The following rules shall apply to the billing of net electricity:

- *(a) The net electricity produced or consumed during a billing period shall be read, recorded, and measured in accordance with metering practices prescribed by the commission;*
- *(b) If the electricity supplied by the retail electric supplier exceeds the electricity generated and fed back to the supplier during the billing period, the customer-generator shall be billed for the net electricity supplied in accordance with subsections (3) and (4) of this section;*
- *(c) If the electricity fed back to the retail electric supplier by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be credited for the excess kilowatt hours in accordance with subsections (3) and (4) of this section. This electricity credit shall appear on the customer-generator's next bill;*
- *(d) If a customer-generator closes his account, no cash refund for residual generation-related credits shall be paid; and*
- *(e) Excess electricity credits are not transferable between customers or locations.*

(6) Electric generating systems used by eligible customer-generators shall meet all applicable safety and power quality standards established by the National Electrical Code (NEC), Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories.

(7) An eligible customer-generator installation is transferable to other persons or service locations upon notification to the retail electric supplier and verification that the installation is in compliance with the applicable safety and power quality standards in subsection (6) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall have original jurisdiction over any dispute between a retail electric supplier and an eligible customer-generator, regarding net metering rates, service, standards, performance of contracts, and testing of net meters.

(2) No later than one hundred eighty (180) days from the effective date of this Act, each retail electric supplier shall file with the commission a net metering tariff that includes all terms and conditions of its net metering program, including interconnection standards meeting the requirements of subsection (6) of Section 2 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall apply to a United State corporate agency or instrumentality of the United States government, or a distributor of electric power primarily supplied by such a corporate agency or instrumentality of the United States government.

HB 524, AN ACT relating to the Tourism Development Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

- (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;
- (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;
- (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the

acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;

(9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;

(11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12) "Theme restaurant destination attraction" means a restaurant facility that has:

(a) Construction, equipment, and furnishing costs in excess of five million dollars ($5,000,000);

(b) Seating capacity of four hundred fifty (450) guests, of which an annual average of not less than fifty percent (50%) shall be guests who are not residents of the Commonwealth;

(c) Business plans that indicate that the attraction shall be in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;

(d) Business plans that indicate that the attraction shall offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public, and shall offer a unique dining and cultural experience that is not available elsewhere in the Commonwealth; and

(e) Food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts;

(13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, a theme restaurant destination attraction, or an entertainment destination center. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless:

1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency;

2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National

Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council;[~~ or~~]

3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars ($10,000,000)***; or***

4. The facilities involve the construction, restoration, or rehabilitation of a lodging facility which is or will be located within one of the seventy (70) least populated counties in the Commonwealth, in terms of total population, according to the most recent census.

(b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a theme restaurant destination attraction, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(14) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

SB 118, AN ACT relating to the sale of electric power from cooperatives to municipalities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.120 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell personal property, except that transferred in part payment for other personal property, to their members only.

(2) Except as provided in subsection (3) of this section and in KRS 279.125, any corporation formed under this chapter may supply electric energy, furnish services and sell property, to the extent of not more than forty-nine percent (49%) of its total business, to nonmembers of the corporation, including any federal agency, any [~~other ~~]state, and any county, city or political subdivision[~~ thereof~~].

(3) A corporation formed under this chapter may sell and lease back any part or all of its property free of the restrictions contained in subsections (1) and (2) of this section, or any other section of the Kentucky Revised Statutes except that such sale shall be subject to KRS 279.140.

Section 2. KRS 279.125 is amended to read as follows:

Notwithstanding the provisions of any other section of the Kentucky Revised Statutes, ***unless specific authorization is granted by the Public Service Commission,*** no corporation formed under this chapter shall transmit, distribute or furnish electric energy for resale, either directly or indirectly, to any electric utility now or hereafter owned or controlled, in whole or in part, by any municipality or municipalities, or instrumentalities thereof, incorporated on June 21, 1974, except to any such electric utility to which such corporation's electric facilities are physically connected on June 21, 1974; and provided, further, that no provision herein shall prevent a corporation organized under this chapter from interconnecting for exchanges of energy with any such municipal utility which, on June 21, 1974, owns and operates electric generating facilities adequate to supply the electric requirements of the municipality. ***The required authorization as used in this section shall not be construed to extend the jurisdiction of the Public Service Commission over municipally owned electric systems.***

The Committee on Education reported **HCR 172, HR 174,** and **SB 124** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 172, A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to study pupil transportation funding in local school districts.

WHEREAS, pupil transportation is a major expenditure of public education funding; and

WHEREAS, concerns have been raised regarding the current funding formula and the equitable disbursement of pupil transportation funds; and

WHEREAS, a detailed study of the costs associated with pupil transportation has not been conducted in the last decade; and

WHEREAS, the Legislative Research Commission has the duty and responsibility to monitor the implementation of the provisions of the Kentucky Education Reform Act;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby directed to establish a Task Force on Pupil Transportation Funding to study the current funding formula and the equitable disbursement of pupil transportation funds.

Section 2. (1)This Task Force of the Legislative Research Commission shall be appointed by July 31, 2004 and shall be composed of the following:

(a) The chairman of the Senate Education Committee;

(b) The chairman of the House Education Committee;

(c) Three (3) members of the Senate, two (2) to be appointed by the President of the Senate, and one (1) to be appointed by the Minority Floor Leader of the Senate;

(d) Three (3) members of the House of Representatives, two (2) to be appointed by the Speaker of the House, and one (1) to be appointed by the Minority Floor Leader of the House;

(e) The Commissioner of the Department of Education, or designee;

(f) Three (3) local school district directors of transportation, to be selected by the Legislative Research Commission from a list provided by the Commissioner of Education, one (1) representing an urban school district and two (2) representing rural school districts; and

(g) The Director of the Office of Education Accountability, or designee.

(2) The President of the Senate and the Speaker of the House shall appoint the co-chairs of the Task Force from among the legislative members on the Task Force.

(3) Final membership of the Task Force is subject to the consideration and approval of the Legislative Research Commission.

Section 3. The Task Force is directed to conduct a study of pupil transportation funding to include:

(1) An analysis of the current formula used to determine the level of reimbursed funding for school districts;

(2) The pupil transportation costs incurred by each local school district;

(3) A comparison of the efficiencies used by school districts in the operation of their transportation systems; and

(4) The adequacy and equity of pupil transportation costs reimbursed to each local school district.

Section 4. The Legislative Research Commission may contract for services with appropriate outside agencies to assist in the completion of the study and may work in conjunction with any Executive Branch agency conducting a like study.

Section 5. The Task Force shall present a final report of its findings to the Interim Joint Committee on Education and to the Interim Joint Committee on Appropriations and Revenue no later than December 15, 2004.

Section 6. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HR 174, A RESOLUTION urging the United States Congress to fully fund the No Child Left Behind Act and to allow states more flexibility in implementing its requirements.

WHEREAS, the No Child Left Behind Act is an unprecedented federal intrusion into the historical and constitutional authority and responsibility regarding public elementary and secondary education which resides with the Kentucky General Assembly; and

WHEREAS, Kentucky has invested millions of dollars over the last twelve years to establish standards-based reform which has resulted in significant gains in student achievement; and

WHEREAS, the mandates of the No Child Left Behind Act do not recognize a state's unique system for assessment and accountability and require duplication of effort; and

WHEREAS, the Kentucky Education Reform Act was a precursor of the No Child Left Behind Act and had as its basic tenet that all children can learn at high levels; and

WHEREAS, the goals of the Kentucky Education Reform Act are consistent with the goals of the No Child Left Behind Act, but the detailed federal mandates are significantly disruptive to Kentucky's approach to achieving those goals; and

WHEREAS, these federal mandates only give schools accountability credit for students scoring at least at the proficiency level, and do not give teachers credit for moving students from novice to apprentice; and

WHEREAS, these federal mandates require annual, instead of biennial, accountability, which allows a school only a few months within a school year to turn a school around, as opposed to two years of test data that provide a more accurate judgment about a school; and

WHEREAS, these federal mandates include only math and reading within accountability, which narrows the curriculum and does not value social studies, science, arts and humanities, writing or practical living and vocational studies; and

WHEREAS, these federal mandates determine that a school is a failure and not making adequate yearly progress if the school fails to achieve only one out of numerous goals; and

WHEREAS, Kentucky has one of the strongest statewide policies for defining "highly qualified teacher" and has long required testing and internship programs for beginning teachers and continued professional development for experienced teachers; and

WHEREAS, the Kentucky Education Reform Act brought together educators, parents, and business and civic leaders to set high educational goals that identified what students should know and be able to do at the end of each grade level; and

WHEREAS, the Kentucky Education Reform Act requires all schools to meet high standards and all students to achieve high goals; and

WHEREAS, the Kentucky Education Reform Act established baseline scores for individual schools against which annual progress could be measured; and

WHEREAS, the No Child Left Behind Act identifies schools as "not making adequate yearly progress" by using guidelines contrary to those set by the Kentucky Education Reform Act; and

WHEREAS, the Commonwealth Accountability Testing System is a high-stakes system that distributes schoolwide rewards or imposes schoolwide sanctions based upon assessment results; and

WHEREAS, the Commonwealth Accountability Testing System has been designed to improve teaching and to assess the extent of student progress toward proficiency; and

WHEREAS, the Commonwealth Accountability Testing System is based on sound psychometric principles and uses nonacademic data, a national test of basic skills, and the Kentucky core content tests to measure school quality and school improvement; and

WHEREAS, the Commonwealth Accountability Testing System assesses all students for accountability purposes; and

WHEREAS, the Commonwealth Accountability Testing System schedule systematically includes testing in reading, mathematics, science, social studies, arts and humanities, and practical living/vocational studies; and

WHEREAS, the Commonwealth Accountability Testing System requires students to complete writing portfolios and to perform on-demand writing; and

WHEREAS, the Commonwealth Accountability Testing System provides accurate, understandable test data that can be used to make effective decisions concerning school policies, programs, and curricula toward improving student learning; and

WHEREAS, Kentucky has invested in one of the nation's most comprehensive technology systems and has developed one of the nation's most inclusive student and administrator data collection systems and has made it available to education stakeholders; and

WHEREAS, the No Child Left Behind Act causes a major expense to Kentucky's education system and a major disruption of administrative and curriculum planning; and

WHEREAS, the expanded provisions of the No Child Left Behind Act severely interfere with state and local legislative educational administrative prerogatives; and

WHEREAS, the cost to implement the requirements of the No Child Left Behind Act will be more than the current $330 million of federal grants which are provided to local school districts; and

WHEREAS, the most recent federal budget indicates no additional education funding will be provided for the implementation of the No Child left Behind Act; and

WHEREAS, Public law 104-4 of 1995 was intended to curb the practice of imposing unfunded federal mandates on states and local governments;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body expresses its concern with the lack of flexibility granted states that have a long history of standards-based reform and concern with the underfunded federal mandates of the No Child Left Behind Act.

Section 2. This honorable body urges the United States Congress to make changes in the No Child Left Behind Act that will permit the United States Department of Education to allow states more flexibility in implementing the components of the No Child Left Behind Act, as long as the goals of the federal Act are addressed.

Section 3. This honorable body urges the Kentucky Board of Education to continue to seek waivers from those mandates of the No Child Left Behind Act in direct conflict with those that Kentucky has identified as crucial for school and student improvement.

Section 4. This honorable body urges the Kentucky Board of Education and the Kentucky Department of Education not to appropriate any additional state funds for implementing the No Child Left Behind Act which would not otherwise have been expended for public education under existing state education laws.

Section 5. This honorable body urges the commissioner of education to submit a statement of expected expenditures that will be made by the state and local school districts in order to comply with the No Child Left Behind Act to the Senate Committee on Education and the Senate Committee on Appropriations and Revenue and to the House of Representatives Committee on Education and the House of Representatives Committee on Appropriations and Revenue.

Section 6. This honorable body urges the United States Congress to fully fund the No Child Left Behind Act. In the event full funding is not provided, this body urges the United States Congress to release the Commonwealth of Kentucky from the requirements found within the Act.

Section 7. The clerk of the House of Representatives is directed to send a copy of this Resolution to the President of the United States; Rod Paige, U.S. Secretary of Education; the members of the Kentucky Congressional Delegation; Gene Wilhoit, Commissioner of Education; and the Kentucky Board of Education.

SB 124, AN ACT relating to school bus specifications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.153 is amended to read as follows:

(1) All school buses for which bids are made or bid contracts awarded shall meet the standards and specifications of the Kentucky ***Department***[~~Board~~] of Education. The term "school bus," as used in this section, shall mean any motor vehicle which meets the standards and specifications for school buses as provided by law or by the standards or specifications of the Kentucky ***Department***[~~Board~~] of Education authorized by law and used solely in transporting school children and school employees to and from school under the supervision and control and at the direction of school authorities, and shall further include school bus accessory equipment and supplies and replacement equipment considered to be reasonably adaptable for purchase from price contract agreements.

(2)[~~All school buses manufactured prior to 1983 shall be equipped with exterior fender mounted front view and side view mirrors so as to meet the 1984 standards and specifications of the State Board for Elementary and Secondary Education.~~

~~(3)~~] Except in cases of emergencies or for the transportation of students with disabilities, only school buses as defined in ***subsection***[~~subsections~~] (1)[~~ and (2)~~] of this section shall be used for transporting students to and from school along regular bus routes. Districts may use district-owned vehicles that were designed and built by the manufacturer for passenger transportation when transporting nine (9) or fewer passengers, including the driver, for approved school activities. Vehicles used under this subsection shall be clearly marked as transporting students and shall be safety inspected no less than once every thirty (30) days.

Section 2. KRS 189.540 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate administrative regulations to govern the design and operation of all Kentucky school buses and to govern the operation of district-owned passenger vehicles transporting students under KRS 156.153*(2)*[~~(3)~~]. The board shall, with the advice and aid of the Kentucky State Police and the Transportation Cabinet, enforce the administrative regulations governing the operation of all school buses whether owned by a school district or privately contracted and all district-owned passenger vehicles transporting students under KRS 156.153*(2)*[~~(3)~~]. The regulations covering the operation shall by reference be made a part of any contract with a school district. Every school district and private contractor referred to under this subsection shall be subject to those regulations.

(2) Any employee of any school district who violates any of the administrative regulations in any contract executed on behalf of a school district shall be subject to removal from office. Any person operating a school bus under contract with a school district who fails to comply with any of the administrative regulations shall be guilty of breach of contract and the contract shall be canceled after proper notice and a hearing by the responsible officers of such school district.

(3) Any person who operates a school bus shall be required to possess a commercial driver's license issued pursuant to KRS 281A.170.

The Committee on Banking and Insurance reported **HB 507, HB 508, HB 605,** and **HB 650,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 507, AN ACT relating to refund of unearned insurance premium.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act is cancelled, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of this Act.

SECTION 2. A NEW SECTION OF KRS 304.14-500 TO 304.14-550 IS CREATED TO READ AS FOLLOWS:

If an individual Medicare supplement policy issued, delivered, or renewed on or after the effective date of this Act is cancelled, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of this Act.

SECTION 3. A NEW SECTION OF KRS 304.14-600 TO 304.14-625 IS CREATED TO READ AS FOLLOWS:

If an individual long-term care insurance policy issued, delivered, or renewed on or after the effective date of this Act is cancelled, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of this Act.

HB 508, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-650 is amended to read as follows:

As used in KRS 304.14-650 to 304.14-675, "short-term nursing home insurance policies" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for less than twelve (12) consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis for one (1) or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide services in a skilled nursing facility, extended care facility, intermediate care facility, convalescent nursing home, personal care facility, home health care agency, adult day care facility, and assisted living facility. This term shall also include a policy or rider that provides for payment of benefits based upon cognitive impairment or loss of functional capacity. Short-term nursing home insurance policies may be issued by insurers, fraternal benefit societies, nonprofit hospitals, medical-surgical, dental, and health services corporations, health maintenance organizations, or any similar organization to the extent they are otherwise authorized to issued life or health insurance. Short-term nursing home insurance policies shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity, major medical expense coverage, disability income or related-asset protection coverage, accident only coverage, specified disease or specified accident coverage~~[, or limited benefit coverage]~~.

Section 2. KRS 304.17A-245 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, an insurer delivering or issuing a health benefit plan subject to this subtitle~~[or a health insurance policy]~~ shall give the policyholder or contract holder at least thirty (30) days' advance written notice of cancellation. The notice shall be mailed by regular United States first class mail to the policyholder's or contract holder's last address as shown by the records of the insurer. If premium has been paid, the insurer shall pay all claims through the conclusion of the thirty (30) day notice period, except for as provided in KRS 304.14-110.

(2) If cancellation is for nonpayment of premium, the insurer shall give the policyholder or contract holder at least thirty (30) days' written notice of cancellation. The cancellation shall be mailed by regular United States first class mail. If premium is not paid at the conclusion of the thirty (30) day grace period, the policy automatically terminates to the last date through which premium was paid. The insurer shall clearly state, in the thirty (30) day notice of termination, that if premium is not received by the end of the thirty (30) day grace period, the policy automatically terminates to the last date through which premium was paid.

(3) If the group policy has been canceled, the insurer shall notify each group member of his right to conversion pursuant to KRS 304.18-110 within fifteen (15) business days after the end of the grace period. On and after January 1, 2001, every insurer offering group health insurance coverage in the Commonwealth shall include in its contract with group policyholders or contract holders, regardless of the situs of the contract, a provision requiring the group policyholder or contract holder to mail promptly to each person covered under the group policy or contract a legible, true copy of any notice of cancellation of the group coverage which may be received from the insurer and to provide promptly to the insurer proof of that mailing and the date thereof. The notice of cancellation mailed by the group policyholder or contract holder to each person covered under the group policy or contract shall include information regarding the conversion rights of covered persons upon termination of the group policy or contract. This information shall be in clear and easily understandable language.

(4) All group contracts shall include an automatic termination provision if premium amounts are not received by the end of the grace period.

(5) In the event of cancellation, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(6) If the insurer fails to provide the thirty (30) days' notice required by this section, the coverage shall remain in effect at the existing premium until thirty (30) days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.

(7) In the case of nonpayment of premium, all group contracts shall include an insurer's reinstatement policy for a contract holder or policyholder. An insurer shall not deny a contract holder or policyholder reinstatement based on any health-

related factor listed in KRS 304.17A-200 or consideration of medical loss ratio.

Section 3. KRS 304.17A-527 is amended to read as follows:

(1) A managed care plan as defined in KRS 304.17A-500 shall file with the commissioner sample copies of any agreements it enters into with providers for the provision of health care services. The commissioner shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements and contracts entered into or renewed after July 15, 2002, shall include the following:

(a) A hold harmless clause that states that the provider may not, under any circumstance, including:

1. Nonpayment of moneys due the providers by the managed care plan,
2. Insolvency of the managed care plan, or
3. Breach of the agreement,

bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;

(b) A continuity of care clause that states that if an agreement between the provider and the managed care plan is terminated for any reason, other than a quality of care issue or fraud, the ***insurer***[~~provider~~] shall continue to provide services and reimburse the provider in accordance with the agreement until the subscriber, dependent of the subscriber, or the enrollee is discharged from an inpatient facility, or the active course of treatment is completed, whichever time is greater, and in the case of a pregnant woman, services shall continue to be provided through the end of the post-partum period if the pregnant woman is in her fourth or later month of pregnancy;

(c) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the managed care plan;

(d) A clause stating that, upon request, the insurer shall provide the provider with specific fees for requested codes applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request; and

(e) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide their licensed health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan where the subcontracted provider will bill the managed care plan or subscriber or enrollee directly for the subcontracted services, the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the commissioner in accordance with this subsection.

(2) An insurer that enters into any risk-sharing arrangement or subcontract agreement shall file a copy of the arrangement with the commissioner. The insurer shall also file the following information regarding the risk-sharing arrangement:

(a) The number of enrollees affected by the risk-sharing arrangement;

(b) The health care services to be provided to an enrollee under the risk-sharing arrangement;

(c) The nature of the financial risk to be shared between the insurer and entity or provider, including but not limited to the method of compensation;

(d) Any administrative functions delegated by the insurer to the entity or provider. The insurer shall describe a plan to ensure that the entity or provider will comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated administrative functions; and

(e) The insurer's oversight and compliance plan regarding the standards and method of review.

(3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The commissioner shall have access to a specific risk sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the department shall be considered to be a trade secret and shall not be subject to KRS 61.872 to 61.884.

Section 4. KRS 304.38-191 is amended to read as follows:

Any group policy, group plan, or group contract issued, delivered, or renewed by a health maintenance organization shall include ***continuation rights for certificate holders, pursuant to KRS 304.18-110, and*** conversion[~~ and continuation~~] rights for certificate holders equal to that provided in KRS ***304.18-114***[~~304.18-110~~] subject to the minimum benefits specified in KRS 304.18-120.

HB 605, AN ACT relating to establishment of an interstate compact to regulate designated insurance products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 50 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

Interstate Insurance Product Regulation Compact

Pursuant to terms and conditions of this Act, the Commonwealth of Kentucky seeks to join with other states and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The commissioner of insurance, or his or her designee, is hereby designated to serve as the representative of this state to the commission.

ARTICLE I

The purposes of this Compact are, through means of joint and cooperative action among the compacting states:

(1) To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;

(2) To develop uniform standards for insurance products covered under the Compact;

(3) To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;

(4) To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

(5) To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;

(6) To create the Interstate Insurance Product Regulation Commission; and

(7) To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II

For purposes of this Compact:

(1) "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more specifically defined in the rules and operating procedures of the commission;

(2) "Bylaws" mean those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct;

(3) "Compacting state" means any state which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section (1), or been terminated pursuant to Article XIV, Section (2);

(4) "Commission" means the "Interstate Insurance Product Regulation Commission" established by this Compact;

(5) "Commissioner" means the chief insurance regulatory official of a state including, but not limited to commissioner, superintendent, director, or administrator;

(6) "Domiciliary State" means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry;

(7) "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this Act;

(8) "Member" means the person chosen by a compacting state as its representative to the commission, or his or her designee;

(9) "Non-compacting state" means any state which is not at the time a compacting state;

(10) "Operating procedures" mean procedures promulgated by the commission implementing a rule, uniform standard or a provision of this Compact;

(11) "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue;

(12) "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to Article VII of this Compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states;

(13) "State" means any state, district, or territory of the United States of America;

(14) "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer; and

(15) "Uniform standard" means a standard adopted by the commission for a product line, pursuant to Article VII of this Compact, and shall include all of the product requirements in aggregate; provided, that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a product and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

ARTICLE III

(1) The compacting states hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the commission will have the power to develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards; provided, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the state where filed.

(2) The commission is a body corporate and politic, and an instrumentality of the compacting states.

(3) The commission is a not-for-profit entity, separate and distinct from the individual compacting states.

(4) The commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

(5) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

ARTICLE IV

The commission shall have the following powers:

(1) To promulgate rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this Compact;

(2) To exercise its rule-making authority and establish reasonable uniform standards for products covered under the Compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt out of such uniform standard pursuant to Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' (NAIC) Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the National Association of Insurance Commissioners' Long- Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners require amending of the uniform standards established by the commission for long-term care insurance products;

(3) To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in the Compact;

(4) To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this Compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of commission as provided in this section shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the Compact;

(5) To exercise its rule-making authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission;

(6) To promulgate operating procedures, pursuant to Article VII of this Compact, which shall be binding in the compacting states to the extent and in the manner provided in this Compact;

(7) To bring and prosecute legal proceedings or actions in its name as the commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

(8) To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

(9) To establish and maintain offices;

(10) To purchase and maintain insurance and bonds;

(11) To borrow, accept or contract for services of personnel, including, but not limited to, employees of a compacting state;

(12) To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

(13) To accept any and all appropriate donations, and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety;

(14) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;

(15) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

(16) To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures;

(17) To enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws;

(18) To provide for dispute resolution among compacting states;

(19) To advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of this Compact;

(20) To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

(21) To establish a budget and make expenditures;

(22) To borrow money;

(23) To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws;

(24) To provide and receive information from, and to cooperate with law enforcement agencies;

(25) To adopt and use a corporate seal; and

(26) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

ARTICLE V

(1) Membership, Voting and Bylaws.

(a) Each compacting state shall have and be limited to one (1) member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he or she shall be appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

(b) Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds (2/3) of the members vote in favor thereof.

(c) The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the compact, including, but not limited to:

1. Establishing the fiscal year of the commission;

2. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee;

3. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the commission;

4. Providing reasonable procedures for calling and conducting meetings of the commission that consists of a majority of commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in total or in part. As soon as practicable, the commission must make public:

a. A copy of the vote to close the meeting revealing the vote of each member with no proxy votes *allowed; and*

b. *Votes taken during such meeting;*

5. *Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;*

6. *Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;*

7. *Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and*

8. *Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.*

(d) *The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.*

(2) *Management Committee, Officers and Personnel.*

(a) *A management committee comprising no more than fourteen (14) members shall be established as follows:*

1. *One (1) member from each of the six (6) compacting states with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the National Association of Insurance Commissioners for the prior year;*

2. *Four (4) members from those compacting states with at least two percent (2%) of the market based on the premium volume described above, other than the six (6) compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and*

3. *Four (4) members from those compacting states with less than two percent (2%) of the market, based on the premium volume described above, with one (1) selected from each of the four (4) zone regions of the National Association of Insurance Commissioners as provided in the bylaws.*

(b) *The management committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:*

1. *Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;*

2. *Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds (2/3) of the members of the management committee;*

3. *Overseeing the offices of the commission; and*

4. *Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.*

(c) *The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.*

(d) *The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.*

(3) *Legislative and Advisory Committees.*

(a) *A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.*

(b) *The commission shall establish two (2) advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.*

(c) *The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.*

(4) Corporate Records of the Commission.

The commission shall maintain its corporate books and records in accordance with the bylaws.

(5) Qualified Immunity, Defense and Indemnification.

(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

ARTICLE VI

(1) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(2) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

ARTICLE VII

(1) Rulemaking Authority. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.

(2) Rulemaking Procedure, Rules, and Operating Procedures. Rulemaking procedure. rules, and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.

(3) Effective Date and Opt Out of a Uniform Standard. A uniform standard shall become effective ninety (90) days after its promulgation by the commission or such later date as the commission may determine; provided, however, that a compacting state may opt out of a uniform standard as provided in this Article. "Opt out" shall be defined as any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure or amendment.

(4) Opt Out Procedure. A compacting state may opt out of a uniform standard, either by legislation or regulation duly promulgated by the insurance department under the compacting state's administrative procedure Act. If a compacting state elects to opt out of a uniform standard by regulation, it must give written notice to the commission no later than ten (10) business days after the uniform standard is promulgated, or at the time the state becomes a compacting state, and find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of

the citizens of the state outweigh:

(a) The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this Act; and

(b) The presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this Compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

(5) Effect of Opt Out. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective. Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.

(6) Stay of Uniform Standard. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least fifteen (15) days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety (90) days, unless affirmatively extended by the commission; provided, a stay may not be permitted to remain in effect for more than one (1) year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

(7) Not later than thirty (30) days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

ARTICLE VIII

(1) The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records, and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(2) Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission; provided, that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.

(3) The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in Article XIV.

(4) The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the Compact is governed by the following provisions:

(a) With respect to the commissioner's market regulation of a product or advertisement that is approved or certified

to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of the Compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission;

(b) Before a commissioner may bring an action for violation of any provision, standard, or requirement of the Compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

ARTICLE IX

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this Compact and which may arise between two (2) or more compacting states, or between compacting states and non-compacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

ARTICLE X

(1) Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.

(2) The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.

(3) Any product approved by the commission may be sold or otherwise issued in those compacting states for which the insurer is legally authorized to do business.

ARTICLE XI

(1) Not later than thirty (30) days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section (5).

(2) The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section (1) above.

ARTICLE XII

(1) The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

(2) The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

(3) The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

(4) The commission shall be exempt from all taxation in and by the compacting states.

(5) The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

(6) The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three (3) years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the Governor and legislature of the compacting states, which shall include a report of the

independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

(7) No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this Compact.

ARTICLE XIII

(1) Any state is eligible to become a compacting state.

(2) The Compact shall become effective and binding upon legislative enactment of the Compact into law by two (2) compacting states; provided, the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six (26) states are compacting states or, alternatively, by states representing greater than forty percent (40%) of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the National Association of Insurance Commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the Compact into law by that state.

(3) Amendments to the Compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

ARTICLE XIV

(1) Withdrawal.

(a) Once effective, the Compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the Compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the Compact into law.

(b) The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state, unless the approval is rescinded by the withdrawing state as provided in paragraph (e) of this section.

(c) The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this Compact in the withdrawing state.

(d) The commission shall notify the other compacting states of the introduction of such legislation within ten (10) days after its receipt of notice thereof.

(e) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

(f) Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the Compact.

(2) Default.

(a) If the commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this Compact, the bylaws, or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this Compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the Compact and all rights, privileges, and benefits conferred by this Compact shall be terminated from the effective date of termination.

(b) Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to Section (1) of this article.

(c) Reinstatement following termination of any compacting state requires a reenactment of the Compact.

(3) Dissolution of Compact.

(a) The Compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the Compact to one (1) compacting state.

(b) Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XV

(1) The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(2) The provisions of this Compact shall be liberally construed to effectuate its purposes.

ARTICLE XVI

(1) Other Laws.

(a) Nothing herein prevents the enforcement of any other law of a compacting state, except as provided in paragraph (b) of this section.

(b) For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict:

1. The access of any person, including the attorney general, to state courts;

2. Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;

3. State law relating to the construction of insurance contracts; or

4. The authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

(c) All insurance products filed with individual states shall be subject to the laws of those states.

(2) Binding Effect of this Compact.

(a) All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

HB 650, AN ACT relating to health benefit plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of this subtitle, health benefit plan coverage that is provided to individuals through an association that is not related to employment shall be considered coverage in the individual market.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, an insurer that issues or renews a health benefit plan on or after January 1, 2005, and before December 31, 2007, shall not be required to include any additional state mandated benefit beyond those statutory requirements in effect for health benefits plans on the effective date of this section.

(2) An insurer issuing or renewing a health benefit plan may elect to expand coverage on any group, individual, or association health benefit plan.

(3) An insurer issuing or renewing a health benefit plan shall not suspend, limit, or modify any state mandated benefit in

effect on the effective date of this section.

(4) An insurer issuing or renewing a health benefit plan shall not suspend, limit, or modify any federal mandated benefit in effect on the effective date of this section or any federal mandated benefit that becomes effective after the effective date of this section.

(5) Nothing in this section shall affect the fiscal impact statement required by KRS 6.948 to be attached to any legislation mandating health insurance benefits.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that offers a health benefit plan that is not a managed care plan but provides financial incentives for a covered person to access a network of providers shall:

(1) Notify the covered person, in writing, of the availability of a printed document, in a manner consistent with KRS 304.14-420 to 304.14-450, containing the following information at the time of enrollment and upon request:

(a) A current directory of the in-network providers from which the covered person may access covered services at a financially beneficial rate. The directory shall, at a minimum, provide the name, type of provider, professional office address, telephone number, and specialty designations of the network provider, if any; and

(b) In addition to making the information available in a printed document, an insurer may also make the information available in an accessible electronic format;

(2) Assure that contracts with the providers in the network contain a hold harmless agreement under which the covered person will not be balanced billed by the in-network provider except for deductibles, co-pays, coinsurance amounts, and noncovered benefits; and

(3) File with the department a copy of the directory required under subsection (1) of this section.

Section 4. KRS 304.17A-095 is amended to read as follows:

(1) (a) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to any market segment other than a large group shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers. The insurer shall also submit a copy of the filing to the Attorney General and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer shall submit a new filing to reflect any material change to the previously filed and approved rate filing. For all other changes, the insurer shall submit an amendment to a previously approved rate filing.

(b) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to a large group as defined in KRS 304.17A-005 shall file the rating methodology with the commissioner and shall submit a copy of the filing to the Attorney General.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved.

(b) In the circumstances of a filing that has been deemed approved or has been disapproved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if *the commissioner subsequently determines that the filing contained misrepresentations or was based on fraudulent information, and if* after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17B-021; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future

premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) Notwithstanding subsection (2) of this section, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved. Each insurer paying a risk assessment under KRS 304.17B-021 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member, or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this section, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.

(8) (a) The commissioner shall hold a hearing upon written request by the Attorney General. The written request shall be based upon one (1) or more of the reasons set out in subsection (3) of this section and shall state the applicable reasons.

(b) An insurer may request a hearing, pursuant to KRS 304.2-310, with regard to any action taken by the commissioner under this section as to the disapproval of rates or an order of a retroactive reduction of rates.

(c) The hearing shall be a public hearing conducted in accordance with KRS 304.2-310.

Section 5. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan***. After July 15, 2004, insurers may offer the standard health benefit plan in the individual or small group markets***~~[that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200. As a condition of doing business in the individual market on or after January 1, 2001, a health insurer shall offer the standard health benefit plan]~~. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually.~~[Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.]~~

(2) ***If offered,*** the standard health benefit plan ***may***~~[shall]~~ be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17B-021 for inclusion in calculating assessments and refunds under Kentucky Access.

(4) Any health insurer who ***offers the standard health benefit plan may***~~[elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998,]~~ offer ~~[and issue]~~the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-220, 304.17A.230, and 304.17A-240.

(6)~~[Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.~~

~~(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.~~

~~1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance,~~

~~and the content of a benefits comparison.~~

~~2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.~~

~~3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.~~

~~(b) The benefits comparison given to a prospective applicant shall include:~~

~~1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;~~

~~2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and~~

~~3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.~~

~~(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.~~

~~(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.~~

~~(8)~~] All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(7)[~~(9)~~] All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(8)[~~(10)~~] Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(9)[~~(11)~~] A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(10)[~~(12)~~] Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a properly completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an applicant or insured with a disclosed high-cost condition as specified in KRS 304.17B-001 or for any reason, shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the basis for refusing to issue a policy, a description of Kentucky Access, and the telephone number for a contact person who can provide additional information about Kentucky Access.

(11)[~~(13)~~] If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(12)[~~(14)~~] No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 6. KRS 304.17A-330 is amended to read as follows:

(1) All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by July 31 to the commissioner the following information, in a format prescribed by the

commissioner, on their insurance experience in this state for the preceding calendar year:

(a)[~~(1)~~] Total premium by product type and market segment;

(b)[~~(2)~~] Total enrollment by product type and market segment;

(c)[~~(3)~~]Total cost of medical claims filed by product type and market segment;

(d)[~~(4)~~] Total amount of medical claims paid by the insurer and insured by product type and market segment;

(e)[~~(5)~~]Total policies canceled by type and the aggregate reasons therefor; and

(f)[~~(6)~~] List of total health and medical services paid for, grouped by types of services and costs:

1.[~~(a)~~] Total cost per health and medical service per insured group:

a.[~~1.~~] Cost paid by insurer;

b.[~~2.—~~]Cost paid by insured; and

2.[~~(b)~~] Number of insureds who received each service.

(2) With the approval of the commissioner, the department may exempt insurers, employer-organized associations that self-insure, and health purchasing outlets from the data reporting requirements of this section if the total number of insureds is less than five hundred (500.

Section 7. KRS 304.17A-500 is amended to read as follows:

As used in KRS 304.17A-500 to 304.17A-590, unless the context requires otherwise:

(1) "Areas other than urban areas" means a classification code that does not meet the definition of urban area;

(2) "Contract holder" means an employer or organization that purchases a ***health benefit plan***[~~contract for services~~];

(3) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(4) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson would reasonably have cause to believe constitutes a condition that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;

(5) "Enrollee" means a person who is enrolled in a[~~ managed health care~~] plan ***offered by a health maintenance organization as defined in KRS 304.38-030(5)***;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health insurance policy" means "health benefit plan" as defined in KRS 304.17A-005;

(8) "Insurer" has the meaning provided in KRS 304.17A-005;

(9) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to ***enrollees***[~~covered persons~~] by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for ***enrollees***[~~covered persons~~] to use the participating providers and procedures provided for in the plan;

(10) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services[~~ to an enrollee in its managed care plan~~];

(11) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient;

(13) "Risk sharing arrangement" means any agreement that allows an insurer to share the financial risk of providing health care services to enrollees or insureds with another entity or provider where there is a chance of financial loss to the entity or provider as a result of the delivery of a service. A risk sharing arrangement shall not include a reinsurance contract with an accredited or admitted reinsurer;

(14) "Urban area" means a classification code whereby the zip code population density is greater than three thousand (3,000) persons per square mile; and

(15) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

Section 8. KRS 304.17A-520 is amended to read as follows:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) Women shall be able to choose a qualified health care provider offered by a plan for the provision of covered care necessary to provide routine and preventive women's health care services.

(4) ***An insurer***~~[A managed care plan]~~ shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion. Obtaining the second opinion shall not cost a covered person more than the covered person's normal copay ***or coinsurance amounts***.

Section 9. KRS 304.17A-527 is amended to read as follows:

(1) A managed care plan~~[as defined in KRS 304.17A-500]~~ shall file with the commissioner sample copies of any agreements it enters into with providers for the provision of health care services. The commissioner shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements ~~[and contracts entered into or renewed after July 15, 2002,]~~shall include the following:

(a) A hold harmless clause that states that the provider may not, under any circumstance, including:

1. Nonpayment of moneys due the providers by the managed care plan,

2. Insolvency of the managed care plan, or

3. Breach of the agreement,

bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;

(b) A continuity of care clause that states that if an agreement between the provider and the managed care plan is terminated for any reason, other than a quality of care issue or fraud, the provider shall continue to provide services and ***the plan shall continue to*** reimburse the provider in accordance with the agreement until the subscriber, dependent of the subscriber, or the enrollee is discharged from an inpatient facility, or the active course of treatment is completed, whichever time is greater, and in the case of a pregnant woman, services shall continue to be provided through the end of the post-partum period if the pregnant woman is in her fourth or later month of pregnancy ***at the time the agreement is terminated***;

(c) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the managed care plan;

(d) A clause stating that, upon request, the insurer shall provide the provider with specific fees for requested codes applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request; and

(e) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide their licensed health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan where the subcontracted provider will bill the managed care plan or subscriber or enrollee directly for the subcontracted services, the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the commissioner in accordance with this subsection.

(2) An insurer ***that offers a health benefit plan*** that enters into any risk-sharing arrangement or subcontract agreement shall file a copy of the arrangement with the commissioner. The insurer shall also file the following information regarding the risk-sharing arrangement:

(a) The number of enrollees affected by the risk-sharing arrangement;

(b) The health care services to be provided to an enrollee under the risk-sharing arrangement;

(c) The nature of the financial risk to be shared between the insurer and entity or provider, including but not limited to the method of compensation;

(d) Any administrative functions delegated by the insurer to the entity or provider. The insurer shall describe a plan to ensure that the entity or provider will comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated administrative functions; and

(e) The insurer's oversight and compliance plan regarding the standards and method of review.

(3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The commissioner shall have access to a specific risk sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the department shall be considered to be a trade secret and shall not be subject to KRS 61.872 to 61.884.

Section 10. KRS 304.17A-532 is amended to read as follows:

(1) As used in this section, "hospitalist" means a physician of record at a hospital for a patient of a participating physician and who may return the care of the patient to that physician at the end of the hospitalization.

(2) A contract between ***an insurer***[~~a managed care plan~~] and a physician shall not require the mandatory use of a hospitalist.

Section 11. KRS 304.17A-545 is amended to read as follows:

(1) A managed care plan shall appoint a medical director who:

(a) Is a physician licensed to practice in this state***, the state where the insurer is domiciled, or any state in which the insurer is licensed to do business***;

(b) Is in good standing with the ***Kentucky*** State Board of Medical Licensure***, or the State Board of Medical Licensure where the insurer is domiciled or licensed to do business***;

(c) Has not had his or her license revoked or suspended, under KRS 311.530 to 311.620;

(d) Shall sign any denial letter required under KRS 304.17A-540; and

(e) Shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service because that service is not medically necessary shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky***, the state in which the insurer is domiciled or any state where the insurer is licensed to do business***;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of

participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

Section 12. KRS 304.17A-550 is amended to read as follows:

(1) An insurer that offers a managed care plan shall offer a health benefit plan with out-of-network benefits to every contract holder***. The plan with out-of-network benefits shall***[~~that would~~] allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) ***If the contract holder elects the out-of-network offering required under subsection (1) of this section, the***[~~An~~] insurer shall provide each enrollee[~~ in a plan whose employer group elects the benefit plan with out-of-network benefits,~~] with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. ***If the contract holder elects the out-of-network offering required under subsection (1) of this section,*** the insurer and ***the contract holder***[~~employer group~~] shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan[~~ whose employer group elects the benefit plan with out-of-network benefits~~] and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of April 10, 1998.

Section 13. KRS 304.17A-600 is amended to read as follows:

As used in KRS 304.17A-600 to 304.17A-633:

(1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:

1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and

2. Benefit coverage is therefore denied, reduced, or terminated.

(b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;

(3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;

(4) "Covered person" means a person covered under a health benefit plan;

(5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under

which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; or limited health service benefit plans; and for purposes of KRS 304.17A-600 to 304.17A-633 includes short-term coverage policies;

(7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;

(9) "Internal appeals process" means a formal process, as set forth in KRS 304.17A-617, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;

(10) "Nationally recognized accreditation organization" means a private nonprofit entity that sets national utilization review and internal appeal standards and conducts review of insurers, agents, or independent review entities for the purpose of accreditation or certification. Nationally recognized accreditation organizations shall include the National Committee for Quality Assurance (NCQA), the American Accreditation Health Care Commission (URAC), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or any other organization identified by the department;

(11) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;

(12) "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;

(13) "Provider" shall have the same meaning as set forth in KRS 304.17A-005;

(14) "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria;

(15) "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review;

(16) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;

(17) ***"Urgent care" means health care or treatment with respect to which the application of the time periods for making nonurgent determination:***

  (a) Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

  (b) In the opinion of a physician with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the care or treatment that is the subject of the utilization review.

(18) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review; and

(19)[~~(18)~~] "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

Section 14. KRS 304.17A-607 is amended to read as follows:

(1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:

  (a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;

  (b) Ensure that only licensed physicians shall:

    1. Make a utilization review decision to deny, reduce, limit, or terminate a health care benefit or to deny, or

reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and

2. Supervise qualified personnel conducting case reviews;

(c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;

(d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act, Subtitle F, secs. 261 to 264 and 45 C.F.R. secs. 160 to 164 and other applicable laws and administrative regulations;

(e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agent and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;

(f) Where an insurer, its agent, or private review agent provides or performs utilization review, be available to conduct utilization review during normal business hours and extended hours in this state on Monday and Friday through 6:00 p.m., including federal holidays;

(g) Provide decisions to covered persons, authorized persons, and all providers on appeals of adverse determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with KRS 304.17A-609;

(h) ***Except for retrospective review of an emergency admission where the covered person remains hospitalized at the time the review request is made, which shall be considered a concurrent review,*** provide a utilization review decision ***including the timeframes and***[~~within the timeframes listed in this paragraph that will be followed by~~] written notice of the decision[~~ within one (1) business day of the date the decision is rendered~~]. A written notice in electronic format, including e-mail or facsimile, may suffice for this purpose where the covered person, authorized person, or provider has agreed in advance in writing to receive such notices electronically and shall include the required elements of subsection (j) of this section[~~:~~

~~1. Within twenty-four (24) hours of a request for:~~

~~a. Preadmission review of a hospital admission, unless additional information is needed;~~

~~b. Preauthorization of treatment when the covered person is already hospitalized; or~~

~~c. Retrospective review of an emergency hospital admission;~~

~~2. Within two (2) business days of receipt of a request for preauthorization for a treatment, procedure, drug, or device, unless there is a documented need for additional information; and~~

~~3. Within twenty (20) business days of the receipt of requested medical information when the insurer or private review agent has initiated a retrospective review~~];

(i) Provide a utilization review decision within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire;

(j) Provide written notice of review decisions to the covered person, authorized person, and providers. An insurer or agent that denies coverage or reduces payment for a treatment, procedure, drug ***that requires prior approval***, or device shall include in the written notice:

1. A statement of the specific medical and scientific reasons for denial or reduction of payment ***or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available***;

2. The state of licensure, medical license number, and the title of the reviewer making the decision;

3. ***Except for retrospective review,*** a description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and

4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in KRS 304.17A-617, stating, at a minimum, whether the appeal shall be in writing, and any specific filing procedures, including any applicable time limitations or schedules, and the position and phone number of a contact person who can provide additional information;

(k) Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and

(l) Comply with its own policies and procedures on file with the department or, if accredited or certified by a nationally recognized accrediting entity, comply with the utilization review standards of that accrediting entity where they are comparable and do not conflict with state law.

(2) The insurer's failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in

KRS 304.17A-617. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.

(3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective or used until after it has been filed with and approved by the commissioner.

(4) A private review agent shall provide to the department the names of the entities for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

Section 15. KRS 304.17A-617 is amended to read as follows:

(1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and KRS 304.17A-619 and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer shall disclose the availability of the internal process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in KRS 304.17A-607(1)(j). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to stating the reason for the coverage denial, the required notice shall contain instructions for filing a request for internal appeal.

(2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a minimum, these procedures shall include the following:

(a) Insurers or their designees shall provide decisions to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of receipt of the request for internal appeal;

(b) Insurers or their designees shall render a decision not later than three (3) business days after receipt of the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:

1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of a bodily organ or part;

(c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;

(d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;

(e) In addition to any previous notice required under KRS 304.17A-607(1)(j), and to facilitate expeditious handling of a request for external review of an adverse determination or a coverage denial, an insurer or agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the covered person, authorized person, or provider acting on behalf of the covered person with an internal appeal determination letter that shall include:

1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

2. The state of licensure, medical license number, and the title of the person making the decision;

3. ***Except for retrospective review,*** a description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and

4. Instructions for initiating an external review of an adverse determination, or filing a request for review with the department if a coverage denial is upheld by the insurer on internal appeal.

(3) The department shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in KRS 304.17A-600 or subsequent denials arising from an adverse determination.

(a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the department shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the department regarding the request for review within five (5) days of receipt of notice to the insurer;

(b) Within five (5) days of receiving the notice of the request for review from the department, the insurer shall provide to the department the following information:

1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person under a health benefit plan issued by the insurer on the date the service was sought or denied;

2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and

3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;

(c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the department any information requested by the department that is germane to its review;

(d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the department is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the department determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under KRS 304.17A-621, 304.17A-623, and 304.17A-625, where the conditions precedent to the review are present. If the department notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review;

(e) An insurer shall be required to cover the treatment, service, drug, or device that was denied or provide notification of the right to external review in accordance with paragraph (d) of this subsection whether the covered person has disenrolled or remains enrolled with the insurer;

(f) If the covered person has disenrolled with the insurer, the insurer shall only be required to provide the treatment, service, drug, or device that was denied for a period not to exceed thirty (30) days, or provide the covered person the opportunity for external review.

Section 16. KRS 304.17A-623 is amended to read as follows:

(1) Every insurer shall have an external review process to be utilized by the insurer or its designee, consistent with this section and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer, its designee, or agent shall disclose the availability of the external review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial as set forth in KRS 304.17A-607(1)(j) and in the denial letter required in KRS 304.17A-617(1) and (2)(e). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan.

(2) A covered person, an authorized person, or a provider acting on behalf of and with the consent of the covered person, may request an external review of an adverse determination rendered by an insurer, its designee, or agent.

(3) The insurer shall provide for an external review of an adverse determination if the following criteria are met:

(a) The insurer, its designee, or agent has rendered an adverse determination;

(b) The covered person has completed the insurer's internal appeal process, or the insurer has failed to make a timely determination or notification as set forth in KRS 304.17A-619(2). The insurer and the covered person may however, jointly agree to waive the internal appeal requirement;

(c) The covered person was enrolled in the health benefit plan on the date of service or, if a prospective denial, the covered person was enrolled and eligible to receive covered benefits under the health benefit plan on the date the proposed service was requested; and

(d) The entire course of treatment or service will cost the covered person at least one hundred dollars ($100) if the covered person had no insurance.

(4) The covered person, an authorized person, or a provider with consent of the covered person shall submit a request for external review to the insurer within sixty (60) days, except as set forth in KRS 304.17A-619(1), of receiving notice that an adverse determination has been timely rendered under the insurer's internal appeal process. As part of the request, the covered person shall provide to the insurer or its designee written consent authorizing the independent review entity to obtain all necessary medical records from both the insurer and any provider utilized for review purposes regarding the decision to deny, limit, reduce or terminate coverage.

(5) The covered person shall be assessed a one (1) time filing fee of twenty-five dollars ($25) to be paid to the independent review entity and which may be waived if the independent review entity determines that the fee creates a financial hardship on the covered person. The fee shall be refunded if the independent review entity finds in favor of the covered person.

(6) A covered person shall not be afforded an external review of an adverse determination if:

(a) The subject of the covered person's adverse determination has previously gone through the external review process and the independent review entity found in favor of the insurer; and

(b) No relevant new clinical information has been submitted to the insurer since the independent review entity found in favor of the insurer.

(7) The department shall establish a system for each insurer to be assigned an independent review entity for external reviews. The system established by the department shall be prospective and shall require insurers to utilize independent review entities on a rotating basis so that an insurer does not have the same independent review entity for two (2) consecutive external reviews. The department shall contract with no less than two (2) independent review entities.

(8) (a) If a dispute arises between an insurer and a covered person regarding the covered person's right to an external review, the covered person may file a complaint with the department. Within five (5) days of receipt of the complaint, the department shall render a decision and may direct the insurer to submit the dispute to an independent review entity for an external review if it finds:

1. The dispute involves denial of coverage based on medical necessity or the service being experimental or investigational; and

2. All of the requirements of subsection (3) of this section have been met.

(b) The complaint process established in this section shall be separate and distinct from, and shall in no way limit other grievance or complaint processes available to consumers under other provisions of the KRS or duly promulgated administrative regulations. This complaint process shall not limit, alter, or supplant the mechanisms for appealing coverage denials established in KRS 304.17A-617.

(9) The external review process shall be confidential and shall not be subject to KRS 61.805 to 61.850 and KRS 61.870 to 61.884.

(10) External reviews shall be conducted in an expedited manner by the independent review entity if the covered person is hospitalized, or if, in the opinion of the treating provider, review under the standard time frame could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or her unborn child in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of a bodily organ or part.

(11) Requests for expedited external review, shall be forwarded by the insurer to the independent review entity within twenty-four (24) hours of receipt by the insurer.

(12) For expedited external review, a determination shall be made by the independent review entity within twenty-four (24) hours from the receipt of all information required from the insurer. An extension of up to twenty-four (24) hours may be allowed if the covered person and the insurer or its designee agree. The insurer or its designee shall provide notice to the independent review entity and to the covered person, by same-day communication, that the adverse determination has been assigned to an independent review entity for expedited review.

(13) External reviews which are not expedited shall be conducted by the independent review entity and a determination made within twenty-one (21) calendar days ***from the receipt of all information required from the insurer***[~~of receipt of the request for external review~~]. An extension of up to fourteen (14) calendar days may be allowed if the covered person and the insurer are in agreement.

Section 17. KRS 304.17A-627 is amended to read as follows:

(1) To be certified as an independent review entity under this chapter, an organization shall submit to the department an application on a form required by the department. The application shall include the following:

(a) The name of each stockholder or owner of more than five percent (5%) of any stock or options for an applicant;

(b) The name of any holder of bonds or notes of the applicant that exceeds one hundred thousand dollars ($100,000);

(c) The name and type of business of each corporation or other organization that the applicant controls or with which it is affiliated and the nature and extent of the affiliation or control;

(d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under paragraph (c) of this subsection and a description of any relationship the named individual has with an insurer as defined in KRS 304.17A-600 or a provider of health care services;

(e) The percentage of the applicant's revenues that are anticipated to be derived from independent reviews;

(f) A description of the minimum qualifications employed by the independent review entity to select health care professionals to perform external review, their areas of expertise, and the medical credentials of the health care professionals currently available to perform external reviews; and

(g) The procedures to be used by the independent review entity in making review determinations; and

(2) If at any time there is a material change in the information included in the application, provided for in subsection (1) of this section, the independent review entity shall submit updated information to the department.

(3)[~~The independent review entity shall annually submit to the department the information required by subsection (1) of this section in a form acceptable to the department.~~

~~(4)~~] An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by an insurer or a trade or professional association of payors.

(4)[~~(5)~~] An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by a trade or professional association of providers.

(5)[~~(6)~~] Health care professionals who are acting as reviewers for the independent review entity shall hold in good standing a nonrestricted license in a state of the United States.

(6)[~~(7)~~] Health care professionals who are acting as reviewers for the independent review entity shall hold a current certification by a recognized American medical specialty board or other recognized health care professional boards in the area appropriate to the subject of the review, be a specialist in the treatment of the covered person's medical condition under review, and have actual clinical experience in that medical condition.

(7)[~~(8)~~] The independent review entity shall have a quality assurance mechanism to ensure the timeliness and quality of the review, the qualifications and independence of the physician reviewer, and the confidentiality of medical records and review material.

(8)[~~(9)~~] Neither the independent review entity nor any reviewers of the entity, shall have any material, professional, familial, or financial conflict of interest with any of the following:

(a) The insurer involved in the review;

(b) Any officer, director, or management employee of the insurer;

(c) The provider proposing the service or treatment or any associated independent practice association;

(d) The institution at which the service or treatment would be provided;

(e) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review; or

(f) The covered person.

(9)[~~(10)~~] As used in this section, "conflict of interest" shall not be interpreted to include:

(a) A contract under which an academic medical center or other similar medical center provides health care services to covered persons, except for academic medical centers that may provide the service under review;

(b) Provider affiliations which are limited to staff privileges; or

(c) A specialist reviewer's relationship with an insurer as a contracting health care provider, except for a specialist reviewer proposing to provide the service under review.

(10)[~~(11)~~] On an annual basis, the independent review entity shall report to the department the following information:

(a) The number of independent review decisions in favor of covered persons;

(b) The number of independent review decisions in favor of insurers;

(c) The average turnaround time for an independent review decision;

(d) The number of cases in which the independent review entity did not reach a decision in the time specified in statute or administrative regulation; and

(e) The reasons for any delay.

Section 18. KRS 304.17A-700 is amended to read as follows:

As used in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123.

(1) "Adjudicate" means an insurer pays, contests, or denies a clean claim;

(2) "Claims payment time frame" means the time period prescribed under KRS 304.17A-702 following receipt of a clean claim from a provider at the address published by the insurer, whether it is the address of the insurer or a delegated claims processor, within which an insurer is required to pay, contest, or deny a health care claim;

(3) "Clean claim" means a properly completed billing instrument, paper or electronic, including the required health claim attachments, submitted in the following applicable form.

(a) A clean claim from an institutional provider shall consist of:

1. The UB-92 data set or its successor submitted on the designated paper or electronic format as adopted by the NUBC;

2. Entries stated as mandatory by the NUBC; and

3. Any state-designated data requirements determined and approved by the Kentucky State Uniform Billing Committee and included in the UB-92 billing manual effective at the time of service.

(b) A clean claim for dentists shall consist of the form and data set approved by the American Dental Association.

(c) A clean claim for all other providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee.

(d) A clean claim for pharmacists shall consist of a universal claim form and data set approved by the National Council on Prescription Drug Programs;

(4) "Commissioner" means the commissioner of the Department of Insurance;

(5) "Covered person" means a person on whose behalf an insurer offering a health benefit plan is obligated to pay benefits or provide services;

(6) "Department" means the Department of Insurance;

(7) "Electronic" or "electronically" means electronic mail, computerized files, communications, or transmittals by way of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(8) "Health benefit plan" has the same meaning as provided in KRS 304.17A-005;

(9) "Health care provider" or "provider" means a provider licensed in Kentucky as defined in KRS 304.17A-005 and, for the purposes of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 only, shall include physical therapists licensed under KRS Chapter 327, psychologists licensed under KRS Chapter 319, and social workers licensed under KRS Chapter 335. Nothing contained in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall be construed to include physical therapists, psychologists, and social workers as a health care provider or provider under KRS 304.17A-005;

(10) "Health claim attachments" means medical information from a covered person's medical record required by the insurer containing medical information relating to the diagnosis, the treatment, or services rendered to the covered person and as may be required pursuant to KRS 304.17A-720;

(11) "Institutional provider" means a health care facility licensed under KRS Chapter 216B;

(12) "Insurer" has the same meaning provided in KRS 304.17A-005;

(13) "Kentucky Uniform Billing Committee (KUBC)" means the committee of health care providers, governmental payors, and commercial insurers established as a local arm of NUBC to implement the bill requirements of the NUBC and to prescribe any additional billing requirements unique to Kentucky insurers;

(14) "National Uniform Billing Committee (NUBC)" means the national committee of health care providers, governmental payors, and commercial insurers that develops the national uniform billing requirements for institutional providers as referenced in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.;

(15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person; and

(16) "Utilization review" has the same meaning as provided in KRS 304.17A-600***(18)***~~[(17)]~~.

Section 19. KRS 304.17A-722 is amended to read as follows:

(1) ~~[No later than ninety (90) days following July 15, 2002,]~~The department shall promulgate administrative regulations requiring~~[all]~~ insurers to report ***data***~~[information]~~ on a calendar quarter basis on ***the*** prompt payment of claims to providers, as defined in KRS 304.17A-700, that shall be limited to the following:

(a) The number of clean claims received by the insurer, its agent, or designee during the reporting period;

(b) The percentage of clean claims received by the insurer, its agent, or designee that were:

1. Adjudicated within the claims payment timeframe;
2. Adjudicated within one (1) to thirty (30) days from the end of the claims payment timeframe;
3. Adjudicated within thirty-one (31) to sixty (60) days from the end of the claims payment timeframe;
4. Adjudicated within sixty-one (61) to ninety (90) days from the end of the claims payment timeframe;
5. Adjudicated more than ninety (90) days from the end of the claims payment timeframe; and
6. Not yet adjudicated;

(c) The percentage of clean claims received during the reporting quarter that were paid and not denied or contested:

1. Within the claims payment timeframe;
2. Within one (1) to thirty (30) days from the end of the claims payment timeframe;
3. Within thirty-one (31) to sixty (60) days from the end of the claims payment timeframe;
4. Within sixty (60) to ninety (90) days from the end of the claims payment timeframe;
5. More than ninety (90) days from the end of the claims payment timeframe; and
6. Not yet paid;

(d) Amount of interest paid; and

(e) For clean claims received during the reporting quarter that were not denied or contested, the percentage of the total dollar amount of those claims that were paid within the claims payment timeframe.

(2) Data required in subsection (1) of this section shall be reported for hospitals, physicians, and all other providers, excluding pharmacies.

(3) Insurers shall submit information required in subsection (1) of this section to the department no later than one hundred eighty (180) days following the close of the reporting quarter.

(4) *With approval of the commissioner, the department may exempt an insurer from the data reporting requirements set forth in subsections (1) to (3) of this section if the total number of insureds is less than five hundred (500).*

(5) The department shall, as part of the market conduct survey of each insurer, audit the insurer to determine compliance with KRS 304.17A-700 to 304.17A-730 and KRS 304.14-135 and 304.99-123. Findings shall be made available to the public upon request.

(6)[~~(5)~~] The commissioner shall annually present to the Interim Joint Committee on Banking and Insurance and to the Governor a report on the payment practices of insurers and compliance with the provisions of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 and the commissioner's enforcement activities, including the number of complaints received and those acted upon by the department.

Section 20. The following KRS section is repealed:

304.17A-533 Prohibition against contract requiring mandatory use of hospitalist.

Section 21. Section 2 of this Act takes effect January 1, 2005.

The Committee Substitute to **HB 650** is as follows:

HB 650, AN ACT relating to health benefit plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of this subtitle, health benefit plan coverage that is provided to individuals through an association that is not related to employment shall be considered coverage in the individual market.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, an insurer that issues or renews a health benefit plan on or after January 1, 2005, and before December 31, 2007, shall not be required to include any additional state mandated benefit beyond those statutory requirements in effect for health benefits plans on the effective date of this section.

(2) An insurer issuing or renewing a health benefit plan may elect to expand coverage on any group, individual, or association health benefit plan.

(3) An insurer issuing or renewing a health benefit plan shall not suspend, limit, or modify any state mandated benefit in effect on the effective date of this section.

(4) An insurer issuing or renewing a health benefit plan shall not suspend, limit, or modify any federal mandated benefit in effect on the effective date of this section or any federal mandated benefit that becomes effective after the effective date of this section.

(5) Nothing in this section shall affect the fiscal impact statement required by KRS 6.948 to be attached to any legislation mandating health insurance benefits.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that offers a health benefit plan that is not a managed care plan but provides financial incentives for a covered person to access a network of providers shall:

(1) Notify the covered person, in writing, of the availability of a printed document, in a manner consistent with KRS 304.14-420 to 304.14-450, containing the following information at the time of enrollment and upon request:

(a) A current directory of the in-network providers from which the covered person may access covered services at a financially beneficial rate. The directory shall, at a minimum, provide the name, type of provider, professional office address, telephone number, and specialty designations of the network provider, if any; and

(b) In addition to making the information available in a printed document, an insurer may also make the information available in an accessible electronic format;

(2) Assure that contracts with the providers in the network contain a hold harmless agreement under which the covered person will not be balanced billed by the in-network provider except for deductibles, co-pays, coinsurance amounts, and noncovered benefits; and

(3) File with the department a copy of the directory required under subsection (1) of this section.

Section 4. KRS 304.17A-095 is amended to read as follows:

(1) (a) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to any market segment other than a large group shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers. The insurer shall also submit a copy of the filing to the Attorney General and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer shall submit a new filing to reflect any material change to the previously filed and approved rate filing. For all other changes, the insurer shall submit an amendment to a previously approved rate filing.

(b) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to a large group as defined in KRS 304.17A-005 shall file the rating methodology with the commissioner and shall submit a copy of the filing to the Attorney General.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved.

(b) In the circumstances of a filing that has been deemed approved or has been disapproved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if ***the commissioner subsequently determines that the filing contained misrepresentations or was based on fraudulent information, and if*** after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17B-021; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) Notwithstanding subsection (2) of this section, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved. Each insurer paying a risk assessment under KRS 304.17B-021 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member, or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this section, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.

(8) (a) The commissioner shall hold a hearing upon written request by the Attorney General. The written request shall be based upon one (1) or more of the reasons set out in subsection (3) of this section and shall state the applicable reasons.

(b) An insurer may request a hearing, pursuant to KRS 304.2-310, with regard to any action taken by the commissioner under this section as to the disapproval of rates or an order of a retroactive reduction of rates.

(c) The hearing shall be a public hearing conducted in accordance with KRS 304.2-310.

Section 5. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard

health benefit plan***. After July 15, 2004, insurers may offer the standard health benefit plan in the individual or small group markets***[~~ that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200. As a condition of doing business in the individual market on or after January 1, 2001, a health insurer shall offer the standard health benefit plan~~]. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually.[~~ Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.~~]

(2) ***If offered,*** the standard health benefit plan ***may***[~~shall~~] be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17B-021 for inclusion in calculating assessments and refunds under Kentucky Access.

(4) Any health insurer who ***offers the standard health benefit plan may***[~~elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998,~~] offer [~~and issue ~~]the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-220, 304.17A.230, and 304.17A-240.

(6)[~~ Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.~~

~~(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.~~

~~1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.~~

~~2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.~~

~~3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.~~

~~(b) The benefits comparison given to a prospective applicant shall include:~~

~~1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;~~

~~2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and~~

~~3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.~~

~~(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.~~

~~(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.~~

~~(8)~~] All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(7)[~~(9)~~] All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(8)[~~(10)~~] Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(9)[~~(11)~~] A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(10)[~~(12)~~] Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a properly completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an applicant or insured with a disclosed high-cost condition as specified in KRS 304.17B-001 or for any reason, shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the basis for refusing to issue a policy, a description of Kentucky Access, and the telephone number for a contact person who can provide additional information about Kentucky Access.

(11)[~~(13)~~] If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(12)[~~(14)~~] No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 6. KRS 304.17A-330 is amended to read as follows:

(1) All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by July 31 to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(a)[~~(1)~~] Total premium by product type and market segment;

(b)[~~(2)~~] Total enrollment by product type and market segment;

(c)[~~(3)~~]Total cost of medical claims filed by product type and market segment;

(d)[~~(4)~~] Total amount of medical claims paid by the insurer and insured by product type and market segment;

(e)[~~(5)~~]Total policies canceled by type and the aggregate reasons therefor; and

(f)[~~(6)~~] List of total health and medical services paid for, grouped by types of services and costs:

1.[~~(a)~~] Total cost per health and medical service per insured group:

a.[~~1.~~] Cost paid by insurer;

b.[~~2.~~] Cost paid by insured; and

2.[~~(b)~~] Number of insureds who received each service.

(2) With the approval of the commissioner, the department may exempt insurers, employer-organized associations that self-insure, and health purchasing outlets from the data reporting requirements of this section if the total number of insureds is less than five hundred (500).

Section 7. KRS 304.17A-500 is amended to read as follows:

As used in KRS 304.17A-500 to 304.17A-590, unless the context requires otherwise:

(1) "Areas other than urban areas" means a classification code that does not meet the definition of urban area;

(2) "Contract holder" means an employer or organization that purchases a ***health benefit plan***[~~contract for services~~];

(3) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide

services under the health insurance policy;

(4) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson would reasonably have cause to believe constitutes a condition that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;

(5) "Enrollee" means a person who is enrolled in a[~~ managed health care~~] plan ***offered by a health maintenance organization as defined in KRS 304.38-030(5)***;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health insurance policy" means "health benefit plan" as defined in KRS 304.17A-005;

(8) "Insurer" has the meaning provided in KRS 304.17A-005;

(9) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to ***enrollees***[~~covered persons~~] by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for ***enrollees***[~~covered persons~~] to use the participating providers and procedures provided for in the plan;

(10) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services[~~ to an enrollee in its managed care plan~~];

(11) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient;

(13) "Risk sharing arrangement" means any agreement that allows an insurer to share the financial risk of providing health care services to enrollees or insureds with another entity or provider where there is a chance of financial loss to the entity or provider as a result of the delivery of a service. A risk sharing arrangement shall not include a reinsurance contract with an accredited or admitted reinsurer;

(14) "Urban area" means a classification code whereby the zip code population density is greater than three thousand (3,000) persons per square mile; and

(15) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

Section 8. KRS 304.17A-520 is amended to read as follows:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) Women shall be able to choose a qualified health care provider offered by a plan for the provision of covered care necessary to provide routine and preventive women's health care services.

(4) ***An insurer***[~~A managed care plan~~] shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion. Obtaining the second opinion shall not cost a covered person more than the covered person's normal copay ***or coinsurance amounts***.

Section 9. KRS 304.17A-527 is amended to read as follows:

(1) A managed care plan[~~ as defined in KRS 304.17A-500~~] shall file with the commissioner sample copies of any agreements

it enters into with providers for the provision of health care services. The commissioner shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements ~~[and contracts entered into or renewed after July 15, 2002,]~~shall include the following:

(a) A hold harmless clause that states that the provider may not, under any circumstance, including:

1. Nonpayment of moneys due the providers by the managed care plan,
2. Insolvency of the managed care plan, or
3. Breach of the agreement,

bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;

(b) A continuity of care clause that states that if an agreement between the provider and the managed care plan is terminated for any reason, other than a quality of care issue or fraud, the provider shall continue to provide services and ***the plan shall continue to*** reimburse the provider in accordance with the agreement until the subscriber, dependent of the subscriber, or the enrollee is discharged from an inpatient facility, or the active course of treatment is completed, whichever time is greater, and in the case of a pregnant woman, services shall continue to be provided through the end of the post-partum period if the pregnant woman is in her fourth or later month of pregnancy ***at the time the agreement is terminated***;

(c) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the managed care plan;

(d) A clause stating that, upon request, the insurer shall provide the provider with specific fees for requested codes applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request; and

(e) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide their licensed health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan where the subcontracted provider will bill the managed care plan or subscriber or enrollee directly for the subcontracted services, the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the commissioner in accordance with this subsection.

(2) An insurer ***that offers a health benefit plan*** that enters into any risk-sharing arrangement or subcontract agreement shall file a copy of the arrangement with the commissioner. The insurer shall also file the following information regarding the risk-sharing arrangement:

(a) The number of enrollees affected by the risk-sharing arrangement;

(b) The health care services to be provided to an enrollee under the risk-sharing arrangement;

(c) The nature of the financial risk to be shared between the insurer and entity or provider, including but not limited to the method of compensation;

(d) Any administrative functions delegated by the insurer to the entity or provider. The insurer shall describe a plan to ensure that the entity or provider will comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated administrative functions; and

(e) The insurer's oversight and compliance plan regarding the standards and method of review.

(3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The commissioner shall have access to a specific risk sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the department shall be considered to be a trade secret and shall not be subject to KRS 61.872 to 61.884.

Section 10. KRS 304.17A-532 is amended to read as follows:

(1) As used in this section, "hospitalist" means a physician of record at a hospital for a patient of a participating physician and who may return the care of the patient to that physician at the end of the hospitalization.

(2) A contract between ***an insurer***~~[a managed care plan]~~ and a physician shall not require the mandatory use of a hospitalist.

Section 11. KRS 304.17A-545 is amended to read as follows:

(1) A managed care plan shall appoint a medical director who:

(a) Is a physician licensed to practice in this state***, the state where the insurer is domiciled, or any state in which the insurer is licensed to do business***;

(b) Is in good standing with the ***Kentucky*** State Board of Medical Licensure***, or the State Board of Medical Licensure where the insurer is domiciled or licensed to do business***;

(c) Has not had his or her license revoked or suspended, under KRS 311.530 to 311.620;

(d) Shall sign any denial letter required under KRS 304.17A-540; and

(e) Shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service because that service is not medically necessary shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky***, the state in which the insurer is domiciled or any state where the insurer is licensed to do business***;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

Section 12. KRS 304.17A-550 is amended to read as follows:

(1) An insurer that offers a managed care plan shall offer a health benefit plan with out-of-network benefits to every contract holder***. The plan with out-of-network benefits shall***[~~that would~~] allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) ***If the contract holder elects the out-of-network offering required under subsection (1) of this section, the***[~~An~~] insurer

shall provide each enrollee~~[in a plan whose employer group elects the benefit plan with out-of-network benefits,]~~ with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. ***If the contract holder elects the out-of-network offering required under subsection (1) of this section,*** the insurer and ***the contract holder***~~[employer group]~~ shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan~~[whose employer group elects the benefit plan with out-of-network benefits]~~ and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of April 10, 1998.

Section 13. KRS 304.17A-600 is amended to read as follows:

As used in KRS 304.17A-600 to 304.17A-633:

(1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:

1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and

2. Benefit coverage is therefore denied, reduced, or terminated.

(b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;

(3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;

(4) "Covered person" means a person covered under a health benefit plan;

(5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; or limited health service benefit plans; and for purposes of KRS 304.17A-600 to 304.17A-633 includes short-term coverage policies;

(7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;

(9) "Internal appeals process" means a formal process, as set forth in KRS 304.17A-617, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;

(10) "Nationally recognized accreditation organization" means a private nonprofit entity that sets national utilization review and internal appeal standards and conducts review of insurers, agents, or independent review entities for the purpose of accreditation or certification. Nationally recognized accreditation organizations shall include the National Committee for Quality Assurance (NCQA), the American Accreditation Health Care Commission (URAC), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or any other organization identified by the department;

(11) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;

(12) "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;

(13) "Provider" shall have the same meaning as set forth in KRS 304.17A-005;

(14) "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria;

(15) "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review;

(16) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;

(17) *(a) "Urgent care" means health care or treatment with respect to which the application of the time periods for making nonurgent determination:*

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

2. In the opinion of a physician with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the care or treatment that is the subject of the utilization review; and

(b) "Urgent care" shall include all requests for hospitalization and outpatient surgery;

(18) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review; and

(19)[~~(18)~~] "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

Section 14. KRS 304.17A-607 is amended to read as follows:

(1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:

(a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;

(b) Ensure that only licensed physicians shall:

1. Make a utilization review decision to deny, reduce, limit, or terminate a health care benefit or to deny, or reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and

2. Supervise qualified personnel conducting case reviews;

(c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;

(d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act, Subtitle F, secs. 261 to 264 and 45 C.F.R. secs. 160 to 164 and other applicable laws and administrative regulations;

(e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agent and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;

(f) Where an insurer, its agent, or private review agent provides or performs utilization review, be available to conduct utilization review during normal business hours and extended hours in this state on Monday and Friday through 6:00 p.m., including federal holidays;

(g) Provide decisions to covered persons, authorized persons, and all providers on appeals of adverse determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with KRS 304.17A-609;

(h) *Except for retrospective review of an emergency admission where the covered person remains hospitalized at the time the review request is made, which shall be considered a concurrent review,* provide a utilization review decision ***relating to urgent and nonurgent care in accordance with 29 C.F.R. Part 2560, including the timeframes and***[~~within the timeframes listed in this paragraph that will be followed by~~] written notice of the decision[~~ within one (1) business day of the date the decision is rendered~~]. A written notice in electronic format, including e-mail or facsimile, may suffice for this purpose where the covered person, authorized person, or provider has agreed in advance in writing to receive such notices electronically and shall include the required elements of subsection (j) of this section[~~:~~

~~1. Within twenty-four (24) hours of a request for:~~

~~a. Preadmission review of a hospital admission, unless additional information is needed;~~

~~b. Preauthorization of treatment when the covered person is already hospitalized; or~~

~~c. Retrospective review of an emergency hospital admission;~~

~~2. Within two (2) business days of receipt of a request for preauthorization for a treatment, procedure, drug, or device, unless there is a documented need for additional information; and~~

~~3. Within twenty (20) business days of the receipt of requested medical information when the insurer or private review agent has initiated a retrospective review~~];

(i) Provide a utilization review decision within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire;

(j) Provide written notice of review decisions to the covered person, authorized person, and providers. An insurer or agent that denies coverage or reduces payment for a treatment, procedure, drug ***that requires prior approval***, or device shall include in the written notice:

1. A statement of the specific medical and scientific reasons for denial or reduction of payment ***or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available***;

2. The state of licensure, medical license number, and the title of the reviewer making the decision;

3. ***Except for retrospective review,*** a description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and

4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in KRS 304.17A-617, stating, at a minimum, whether the appeal shall be in writing, and any specific filing procedures, including any applicable time limitations or schedules, and the position and phone number of a contact person who can provide additional information;

(k) Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and

(l) Comply with its own policies and procedures on file with the department or, if accredited or certified by a nationally recognized accrediting entity, comply with the utilization review standards of that accrediting entity where they are comparable and do not conflict with state law.

(2) The insurer's failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in KRS 304.17A-617. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.

(3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective or used until after it has been filed with and approved by the commissioner.

(4) A private review agent shall provide to the department the names of the entities for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

Section 15. KRS 304.17A-617 is amended to read as follows:

(1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and KRS 304.17A-619 and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer shall disclose the availability of the internal process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in KRS 304.17A-607(1)(j). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to stating the reason for the coverage denial, the required notice shall contain instructions for filing a request for internal appeal.

(2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a

minimum, these procedures shall include the following:

(a) Insurers or their designees shall provide decisions to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of receipt of the request for internal appeal;

(b) Insurers or their designees shall render a decision not later than three (3) business days after receipt of the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:

1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of a bodily organ or part;

(c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;

(d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;

(e) In addition to any previous notice required under KRS 304.17A-607(1)(j), and to facilitate expeditious handling of a request for external review of an adverse determination or a coverage denial, an insurer or agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the covered person, authorized person, or provider acting on behalf of the covered person with an internal appeal determination letter that shall include:

1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;
2. The state of licensure, medical license number, and the title of the person making the decision;
3. ***Except for retrospective review,*** a description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and
4. Instructions for initiating an external review of an adverse determination, or filing a request for review with the department if a coverage denial is upheld by the insurer on internal appeal.

(3) The department shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in KRS 304.17A-600 or subsequent denials arising from an adverse determination.

(a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the department shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the department regarding the request for review within five (5) days of receipt of notice to the insurer;

(b) Within five (5) days of receiving the notice of the request for review from the department, the insurer shall provide to the department the following information:

1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person under a health benefit plan issued by the insurer on the date the service was sought or denied;
2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and
3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;

(c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the department any information requested by the department that is germane to its review;

(d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the department is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the department determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under KRS 304.17A-621, 304.17A-623, and 304.17A-625, where the conditions precedent to the review are present. If the department notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review;

(e) An insurer shall be required to cover the treatment, service, drug, or device that was denied or provide notification of the right to external review in accordance with paragraph (d) of this subsection whether the covered person has disenrolled or remains enrolled with the insurer;

(f) If the covered person has disenrolled with the insurer, the insurer shall only be required to provide the treatment, service, drug, or device that was denied for a period not to exceed thirty (30) days, or provide the covered person the opportunity for external review.

Section 16. KRS 304.17A-623 is amended to read as follows:

(1) Every insurer shall have an external review process to be utilized by the insurer or its designee, consistent with this section and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer, its designee, or agent shall disclose the availability of the external review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial as set forth in KRS 304.17A-607(1)(j) and in the denial letter required in KRS 304.17A-617(1) and (2)(e). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan.

(2) A covered person, an authorized person, or a provider acting on behalf of and with the consent of the covered person, may request an external review of an adverse determination rendered by an insurer, its designee, or agent.

(3) The insurer shall provide for an external review of an adverse determination if the following criteria are met:

(a) The insurer, its designee, or agent has rendered an adverse determination;

(b) The covered person has completed the insurer's internal appeal process, or the insurer has failed to make a timely determination or notification as set forth in KRS 304.17A-619(2). The insurer and the covered person may however, jointly agree to waive the internal appeal requirement;

(c) The covered person was enrolled in the health benefit plan on the date of service or, if a prospective denial, the covered person was enrolled and eligible to receive covered benefits under the health benefit plan on the date the proposed service was requested; and

(d) The entire course of treatment or service will cost the covered person at least one hundred dollars ($100) if the covered person had no insurance.

(4) The covered person, an authorized person, or a provider with consent of the covered person shall submit a request for external review to the insurer within sixty (60) days, except as set forth in KRS 304.17A-619(1), of receiving notice that an adverse determination has been timely rendered under the insurer's internal appeal process. As part of the request, the covered person shall provide to the insurer or its designee written consent authorizing the independent review entity to obtain all necessary medical records from both the insurer and any provider utilized for review purposes regarding the decision to deny, limit, reduce or terminate coverage.

(5) The covered person shall be assessed a one (1) time filing fee of twenty-five dollars ($25) to be paid to the independent review entity and which may be waived if the independent review entity determines that the fee creates a financial hardship on the covered person. The fee shall be refunded if the independent review entity finds in favor of the covered person.

(6) A covered person shall not be afforded an external review of an adverse determination if:

(a) The subject of the covered person's adverse determination has previously gone through the external review process and the independent review entity found in favor of the insurer; and

(b) No relevant new clinical information has been submitted to the insurer since the independent review entity found in favor of the insurer.

(7) The department shall establish a system for each insurer to be assigned an independent review entity for external reviews. The system established by the department shall be prospective and shall require insurers to utilize independent review entities on a rotating basis so that an insurer does not have the same independent review entity for two (2) consecutive external reviews. The department shall contract with no less than two (2) independent review entities.

(8) (a) If a dispute arises between an insurer and a covered person regarding the covered person's right to an external review, the covered person may file a complaint with the department. Within five (5) days of receipt of the complaint, the department shall render a decision and may direct the insurer to submit the dispute to an independent review entity for an external review if it finds:

1. The dispute involves denial of coverage based on medical necessity or the service being experimental or investigational; and

2. All of the requirements of subsection (3) of this section have been met.

(b) The complaint process established in this section shall be separate and distinct from, and shall in no way limit other grievance or complaint processes available to consumers under other provisions of the KRS or duly promulgated administrative regulations. This complaint process shall not limit, alter, or supplant the mechanisms for appealing coverage denials established in KRS 304.17A-617.

(9) The external review process shall be confidential and shall not be subject to KRS 61.805 to 61.850 and KRS 61.870 to 61.884.

(10) External reviews shall be conducted in an expedited manner by the independent review entity if the covered person is hospitalized, or if, in the opinion of the treating provider, review under the standard time frame could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or her unborn child in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of a bodily organ or part.

(11) Requests for expedited external review, shall be forwarded by the insurer to the independent review entity within twenty-four (24) hours of receipt by the insurer.

(12) For expedited external review, a determination shall be made by the independent review entity within twenty-four (24) hours from the receipt of all information required from the insurer. An extension of up to twenty-four (24) hours may be allowed if the covered person and the insurer or its designee agree. The insurer or its designee shall provide notice to the independent review entity and to the covered person, by same-day communication, that the adverse determination has been assigned to an independent review entity for expedited review.

(13) External reviews which are not expedited shall be conducted by the independent review entity and a determination made within twenty-one (21) calendar days ***from the receipt of all information required from the insurer***[~~of receipt of the request for external review~~]. An extension of up to fourteen (14) calendar days may be allowed if the covered person and the insurer are in agreement.

Section 17. KRS 304.17A-627 is amended to read as follows:

(1) To be certified as an independent review entity under this chapter, an organization shall submit to the department an application on a form required by the department. The application shall include the following:

(a) The name of each stockholder or owner of more than five percent (5%) of any stock or options for an applicant;

(b) The name of any holder of bonds or notes of the applicant that exceeds one hundred thousand dollars ($100,000);

(c) The name and type of business of each corporation or other organization that the applicant controls or with which it is affiliated and the nature and extent of the affiliation or control;

(d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under paragraph (c) of this subsection and a description of any relationship the named individual has with an insurer as defined in KRS 304.17A-600 or a provider of health care services;

(e) The percentage of the applicant's revenues that are anticipated to be derived from independent reviews;

(f) A description of the minimum qualifications employed by the independent review entity to select health care professionals to perform external review, their areas of expertise, and the medical credentials of the health care professionals currently available to perform external reviews; and

(g) The procedures to be used by the independent review entity in making review determinations; and

(2) If at any time there is a material change in the information included in the application, provided for in subsection (1) of this section, the independent review entity shall submit updated information to the department.

(3)[~~ The independent review entity shall annually submit to the department the information required by subsection (1) of this section in a form acceptable to the department.~~

~~(4)~~] An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by an insurer or a trade or professional association of payors.

(4)[~~(5)~~] An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by a trade or professional association of providers.

(5)[~~(6)~~] Health care professionals who are acting as reviewers for the independent review entity shall hold in good standing a nonrestricted license in a state of the United States.

(6)[~~(7)~~] Health care professionals who are acting as reviewers for the independent review entity shall hold a current certification by a recognized American medical specialty board or other recognized health care professional boards in the area appropriate to the subject of the review, be a specialist in the treatment of the covered person's medical condition under review, and have actual clinical experience in that medical condition.

(7)[~~(8)~~] The independent review entity shall have a quality assurance mechanism to ensure the timeliness and quality of the review, the qualifications and independence of the physician reviewer, and the confidentiality of medical records and review material.

(8)[~~(9)~~] Neither the independent review entity nor any reviewers of the entity, shall have any material, professional, familial, or financial conflict of interest with any of the following:

(a) The insurer involved in the review;

(b) Any officer, director, or management employee of the insurer;

(c) The provider proposing the service or treatment or any associated independent practice association;

(d) The institution at which the service or treatment would be provided;

(e) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review; or

(f) The covered person.

(9)[~~(10)~~] As used in this section, "conflict of interest" shall not be interpreted to include:

(a) A contract under which an academic medical center or other similar medical center provides health care services to covered persons, except for academic medical centers that may provide the service under review;

(b) Provider affiliations which are limited to staff privileges; or

(c) A specialist reviewer's relationship with an insurer as a contracting health care provider, except for a specialist reviewer proposing to provide the service under review.

(10)[~~(11)~~] On an annual basis, the independent review entity shall report to the department the following information:

(a) The number of independent review decisions in favor of covered persons;

(b) The number of independent review decisions in favor of insurers;

(c) The average turnaround time for an independent review decision;

(d) The number of cases in which the independent review entity did not reach a decision in the time specified in statute or administrative regulation; and

(e) The reasons for any delay.

Section 18. KRS 304.17A-700 is amended to read as follows:

As used in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123.

(1) "Adjudicate" means an insurer pays, contests, or denies a clean claim;

(2) "Claims payment time frame" means the time period prescribed under KRS 304.17A-702 following receipt of a clean claim from a provider at the address published by the insurer, whether it is the address of the insurer or a delegated claims processor, within which an insurer is required to pay, contest, or deny a health care claim;

(3) "Clean claim" means a properly completed billing instrument, paper or electronic, including the required health claim attachments, submitted in the following applicable form.

(a) A clean claim from an institutional provider shall consist of:

1. The UB-92 data set or its successor submitted on the designated paper or electronic format as adopted by the NUBC;

2. Entries stated as mandatory by the NUBC; and

3. Any state-designated data requirements determined and approved by the Kentucky State Uniform Billing Committee and included in the UB-92 billing manual effective at the time of service.

(b) A clean claim for dentists shall consist of the form and data set approved by the American Dental Association.

(c) A clean claim for all other providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee.

(d) A clean claim for pharmacists shall consist of a universal claim form and data set approved by the National Council on Prescription Drug Programs;

(4) "Commissioner" means the commissioner of the Department of Insurance;

(5) "Covered person" means a person on whose behalf an insurer offering a health benefit plan is obligated to pay benefits or provide services;

(6) "Department" means the Department of Insurance;

(7) "Electronic" or "electronically" means electronic mail, computerized files, communications, or transmittals by way of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(8) "Health benefit plan" has the same meaning as provided in KRS 304.17A-005;

(9) "Health care provider" or "provider" means a provider licensed in Kentucky as defined in KRS 304.17A-005 and, for the purposes of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 only, shall include physical therapists licensed under KRS Chapter 327, psychologists licensed under KRS Chapter 319, and social workers licensed under KRS Chapter 335. Nothing contained in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall be construed to include physical therapists, psychologists, and social workers as a health care

provider or provider under KRS 304.17A-005;

(10) "Health claim attachments" means medical information from a covered person's medical record required by the insurer containing medical information relating to the diagnosis, the treatment, or services rendered to the covered person and as may be required pursuant to KRS 304.17A-720;

(11) "Institutional provider" means a health care facility licensed under KRS Chapter 216B;

(12) "Insurer" has the same meaning provided in KRS 304.17A-005;

(13) "Kentucky Uniform Billing Committee (KUBC)" means the committee of health care providers, governmental payors, and commercial insurers established as a local arm of NUBC to implement the bill requirements of the NUBC and to prescribe any additional billing requirements unique to Kentucky insurers;

(14) "National Uniform Billing Committee (NUBC)" means the national committee of health care providers, governmental payors, and commercial insurers that develops the national uniform billing requirements for institutional providers as referenced in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.;

(15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person; and

(16) "Utilization review" has the same meaning as provided in KRS 304.17A-600***(18)***[~~(17)~~].

Section 19. The following KRS section is repealed:

304.17A-533 Prohibition against contract requiring mandatory use of hospitalist.

Section 20. Section 2 of this Act takes effect January 1, 2005.

The Committee on Licensing and Occupations reported **HB 558, HB 559,** with Committee Substitute attached thereto, **HB 560**, with Committee Substitute attached thereto, **HB 597, HB 598,** with Committee Substitute attached thereto, and **HB 708**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 558, AN ACT relating to the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 310.041 is amended to read as follows:

The board shall:

(1) Promulgate administrative regulations in accordance with KRS Chapter 13A implementing the provisions of KRS 310.005, 310.021, 310.031, 310.040, 310.041, 310.042, 310.050, 310.070, and 310.990;

(2) Issue initial licenses and certificates and license and certificate renewals;

(3) Notify in writing any person determined by the board to be in violation of this chapter or the administrative regulations promulgated thereunder. The notification shall state that the person may request a hearing by the board within an amount of time specified by the board. If a hearing is requested, the hearing shall be conducted in accordance with KRS Chapter 13B. If the person fails to request the hearing, or if the board determines from the hearing that the person is in violation of this chapter or the administrative regulations promulgated thereunder, the board may apply to the Circuit Court of the county in which the violation occurred for an injunction or other appropriate restraining order to prohibit the continued violation;

(4) Publish and make available to the public, upon request and for a fee not to exceed the actual cost of printing and mailing, the administrative regulations of the board and the requirements for licensure and certification;

(5) Establish fees, subject to maximum limitations prescribed in this chapter, in amounts sufficient to pay the expenses of the board directly attributable to the performance of its duties pursuant to the provisions of this chapter;

(6) Review and approve or reject the qualifications of all applicants for licensure and certification and issue all approved licenses and certificates;

(7) Collect or receive all fees, fines, and moneys owed pursuant to the provisions of this chapter and to deposit all fees, fines, and moneys into the State Treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this Commonwealth;

(8) Deny, suspend, or revoke the license or certification of or to otherwise discipline or fine, by administrative penalty not to exceed five hundred dollars ($500), or reprimand a license or certificate holder found guilty of violating any provisions of this chapter or the administrative regulations promulgated thereunder***; and***

(9) Grant retired or inactive licensure status under conditions set forth in administrative regulations promulgated by the board.

HB 559, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that it is the public policy of the Commonwealth of Kentucky to recognize and preserve the cultural, historical, and genealogical heritage of the state's cemeteries for present and future generations. This section and Section 2 of this Act provide a means by which the preservation of eligible Kentucky cemeteries may be financed in part through a voluntary check-off designation on state income tax return forms.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

Each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Department for Local Government's county cemetery fund created in KRS 67.682 may designate an amount, not to exceed the amount of the refund, to be paid to the fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

SECTION 3. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The week prior to Memorial Day of each year shall be Kentucky Cemetery Cleanup Week to encourage the statewide cleanup of cemeteries in the Commonwealth. This week shall provide an opportunity for Kentucky communities, individual citizens, and volunteer groups to participate with local, regional, and state entities, to restore, renew, and protect cemeteries as places of dignity, respect, and pride.

(2) Local governments and private businesses shall be encouraged to participate in Kentucky Cemetery Cleanup Week through developing, organizing, and implementing activities that highlight the historical and cultural heritage of their communities. They are encouraged to work in partnership with civic and volunteer organizations as well as corporate sponsors.

(3) The Governor may annually issue a proclamation recognizing the week prior to Memorial Day of each year as Kentucky Cemetery Cleanup Week and call upon all citizens of the Commonwealth to participate in the occasion to honor our ancestral legacy.

SECTION 4. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice of no less than three (3) days shall be given by the descendants and family members to the owner and the occupant, if different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of those graves or burial sites;

(c) Access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or limited to an obvious access route that is visible from view of the property. The owner shall not be required to create a road for access;

(e) The time and manner of access shall be reasonable and designated in writing signed by the descendants or family members and the landowner. Access shall include nonvehicular access;

(f) No state administrative regulation or county ordinance shall require paving, graveling, or fencing off of an access route to a cemetery or grave. Maintenance of access routes shall be agreed upon by the landowner and the descendants and shall not place an undue financial burden on the landowner. Any new road for access completed after a negotiated agreement with the landowner shall be at the expense of the descendants;

(g) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, cemetery, or grave sites, and shall be liable to the owner of the private lands for any damage caused as a result of their access; and

(h) Nothing shall require the landowner to build any fences or supply gates, but if the descendants negotiate for an access route, any fencing, road creation, or maintenance shall be at the expense of the descendants. The access route shall not interfere with the landowner's operation.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth that is recognized by the General Assembly in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other dedications which grant the right to visit the grave sites of deceased relatives and are in existence on the effective date of this Act.

Section 5. KRS 382.110 is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without

notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) ***If the property to be conveyed contains a cemetery or grave site and this fact is known to the grantor, then that fact shall be noted on the deed or other instrument offered for record. If known to the grantor, the location of the cemetery or grave site shall also be noted on the deed or other instrument offered for record. Nothing in this section shall require the landowner to provide a survey.***

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7)[~~(6)~~] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

(8)[~~(7)~~] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

Section 6. KRS 61.350 is repealed, reenacted as a new section of KRS Chapter 307, and amended to read as follows:

Any civil or judicial officer in this state who fails or refuses to enforce any statute bearing upon cemetery companies or burying grounds shall be fined ***no less than five hundred dollars ($500) and no more than one thousand dollars ($1,000)***[~~twenty five dollars ($25)~~] for each failure or refusal.

Section 7. KRS 381.690 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever any burial grounds lie within the corporate limits of a city the governing authorities of the city shall protect the burial grounds from being used for dumping grounds, building sites, playgrounds, places of entertainment and amusement, public parks, athletic fields or parking grounds.

Section 8. KRS 381.700 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

Section 9. KRS 381.710 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The fact that any tract of land has been set apart for burial purposes and that a part or all of the grounds has been used for burial purposes shall be evidence that such grounds were set aside and used for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes.

Section 10. KRS 381.715 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) As used in this section, "cemetery lot" is a lot containing one (1) or more grave spaces and located within a cemetery registered pursuant to KRS 367.946 in a county containing an urban-county government or in a city.

(2) An officer of the cemetery may cause to be filed, on behalf of the cemetery, an action in the Circuit Court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell the rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.

(3) The petition shall include the following:

  (a) The name of the original owner of the burial rights in the lots in question.

  (b) The name of all persons buried in the lots and the date of burial, if known.

  (c) The name, address, and telephone number of the cemetery office.

  (d) An affidavit by the petitioner that:

    1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years; and

    2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to

any officer or employee of the cemetery and not discoverable after a good faith attempt by an officer or employee to identify the owner or heir.

(4) Service of process shall be by warning order attorney, appointed by the court pursuant to CR 4.07.

(5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burial rights in the lots in question abandoned and authorizing the cemetery to sell the rights.

(6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed with the cemetery a statement in writing directing that certain grave spaces not be used.

Section 11. KRS 381.720 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever in the opinion of the legislative body of a city of the first, second, third, fourth or fifth class a cemetery located within the boundaries of such city has been abandoned and the land comprising the said cemetery is needed for a public purpose, an ordinance may be enacted declaring such cemetery, as described by metes and bounds, to be abandoned and authorizing the city attorney to institute suit for the city or other governmental agency created by the city in the Circuit Court of the county in which the city is located against the property comprising the cemetery to declare the said cemetery abandoned and to vest title thereto in the said city, or any governmental agency created by it pursuant to or by authority of the Kentucky Revised Statutes.

Section 12. KRS 381.730 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Upon the filing of the complaint the city or other governmental agency created by the city shall give notice thereof by publication pursuant to KRS Chapter 424.

Section 13. KRS 381.740 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Within thirty days after the last advertisement, any party having a claim to the cemetery or any lot therein or to the mortal remains of a person interred therein, may file his claim in the said proceeding for damages as compensation for the value of his interest in the cemetery or lot to which he has claim. Upon the filing of the aforesaid claim the Circuit Court shall appoint as commissioners three impartial housekeepers who are owners of land. They shall be sworn to faithfully and impartially discharge their duties. The commissioners shall view the land involved and they may hear evidence or make any inquiry they desire touching the value thereof and award to the claimants who are owners thereof the value of the property taken. They shall return a written report to the office of the clerk of the Circuit Court describing separately the property which is the subject of each claim. Either the claimant or the complainant may file exceptions to this report and demand a jury trial. The commissioners shall be allowed a reasonable fee which shall be taxed as cost.

Section 14. KRS 381.750 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If no claim is made within thirty days after the last advertisement, or if claims have been made and compensation duly paid either to the claimants or into court, the court shall declare the cemetery to be abandoned and enter judgment accordingly, vesting fee simple title in the complainant. Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

Section 15. KRS 381.755 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) Upon application of the owner of property upon which is located an abandoned grave or cemetery or whenever the fiscal court of any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.

(2) The order or resolution for the removal and relocation of the grave or cemetery pursuant to subsection (1) shall specify and declare that at any time after the expiration of sixty days after the first publication of notice of such intended action pursuant to KRS Ch. 424, the court shall direct the removal and relocation of the grave or cemetery.

(3) Expenses for removal and relocation of any grave or cemetery under the provisions of this section shall be paid by the individual requesting such removal or if the removal is made in the best interest of the county the expenses shall be paid from county funds.

(4) Any grave or cemetery removed under the provisions of this section shall be relocated in a suitable place at the expense of the person or county requesting such removal and relocation.

(5) For the purposes of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten years preceding the date of the resolution for removal and relocation of the grave or cemetery.

Section 16. KRS 381.760 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The cost of the proceeding shall be borne by the complainant, and the burden of proof shall be upon the claimant to establish his interest and to establish that it has not been abandoned.

Section 17. KRS 381.765 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If disinterment, removal, and reinterment of graves is effected by the Commonwealth of Kentucky or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, or any electric power or lighting company, such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed under the provisions of KRS Chapter 316; provided, however, a person holding a valid funeral director's license of another state may perform disinterment, removal and reinterment if the state in which such person is licensed has a reciprocal agreement whereby a license granted under the provisions of KRS Chapter 316 is recognized and accepted in that state.

SECTION 18. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet shall perform an inventory listing the number, location, and tribal affiliation, if known, of all Native American remains that are currently held by state-funded agencies, institutions, or universities. This list shall be reported to the General Assembly on or before January 15, 2005.

(2) The secretary of the Finance and Administration Cabinet shall perform an inventory listing of state-owned real estate, including but not limited to cemeteries that would be suitable for reinterment of Native American remains. This inventory shall be reported to the General Assembly on or before January 15, 2005.

Section 19. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(e) Effective January 1, 2005, in the case of a death in which the body or cremated remains are to be placed in a grave, vault, tomb, crypt, or niche, the specific location of the grave, vault, tomb, crypt, or niche within a cemetery shall be listed in the appropriate location on the death certificate by the individual responsible for filing the certificate of death.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and

2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SECTION 20. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Every public cemetery shall keep sufficient records of the specific location of every burial or interment in the cemetery occurring after the effective date of this Act. These records shall be kept at the cemetery's principal place of business and made available to the family of the deceased and other persons as each cemetery may determine.

(2) The records maintained shall be specific enough for an individual, after reviewing these records, to locate the specific grave, vault, tomb, crypt, or niche of an individual interred in that cemetery.

(3) Any cemetery or cemetery owner who violates subsection (1) of this section shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

The Committee Substitute to **HB 559** is as follows:

HB 559, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that it is the public policy of the Commonwealth of Kentucky to recognize and preserve the cultural, historical, and genealogical heritage of the state's cemeteries for present and future generations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The week prior to Memorial Day of each year shall be Kentucky Cemetery Cleanup Week to encourage the statewide cleanup of cemeteries in the Commonwealth. This week shall provide an opportunity for Kentucky communities, individual citizens, and volunteer groups to participate with local, regional, and state entities, to restore, renew, and protect cemeteries as places of dignity, respect, and pride.

(2) Local governments and private businesses shall be encouraged to participate in Kentucky Cemetery Cleanup Week through developing, organizing, and implementing activities that highlight the historical and cultural heritage of their communities. They are encouraged to work in partnership with civic and volunteer organizations as well as corporate sponsors.

(3) The Governor may annually issue a proclamation recognizing the week prior to Memorial Day of each year as Kentucky Cemetery Cleanup Week and call upon all citizens of the Commonwealth to participate in the occasion to honor our ancestral legacy.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice of no less than three (3) days shall be given by the descendants and family members to the owner and the occupant, if different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of those graves or burial sites;

(c) Access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or limited to an obvious access route that is visible from view of the property. The owner shall not be required to create a road for access;

(e) The time and manner of access shall be reasonable and designated in writing signed by the descendants or family members and the landowner. Access shall include nonvehicular access;

(f) No state administrative regulation or county ordinance shall require paving, graveling, or fencing off of an access route to a cemetery or grave. Maintenance of access routes shall be agreed upon by the landowner and the descendants and shall not place an undue financial burden on the landowner. Any new road for access completed after a negotiated agreement with the landowner shall be at the expense of the descendants;

(g) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, cemetery, or grave sites, and shall be liable to the owner of the private lands for any damage caused as a result of their access; and

(h) Nothing shall require the landowner to build any fences or supply gates, but if the descendants negotiate for an access route, any fencing, road creation, or maintenance shall be at the expense of the descendants. The access route shall not interfere with the landowner's operation.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth that is recognized by the General Assembly in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other dedications which grant the right to visit the grave sites of deceased relatives and are in existence on the effective date of this Act.

(3) Any person denied reasonable access under the provisions of subsection (1) of this section may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. In granting any relief, the court may set the frequency of access, hours, and duration of the access.

(4) A landowner who violates the provisions of this section shall be guilty of a Class B misdemeanor

Section 4. KRS 382.110 is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) *If the property to be conveyed contains a cemetery or grave site and this fact is known to the grantor, then that fact shall be noted on the deed or other instrument offered for record. If known to the grantor, the location of the cemetery or grave site shall also be noted on the deed or other instrument offered for record. Nothing in this section shall require the landowner to provide a survey.*

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7)[~~(6)~~] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

(8)[~~(7)~~] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

Section 5. KRS 61.350 is repealed, reenacted as a new section of KRS Chapter 307, and amended to read as follows:

Any civil or judicial officer in this state who fails or refuses to enforce any statute bearing upon cemetery companies or burying grounds shall be fined *no less than five hundred dollars ($500) and no more than one thousand dollars ($1,000)*[~~twenty-five dollars ($25)~~] for each failure or refusal.

Section 6. KRS 381.690 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever any burial grounds lie within the corporate limits of a city the governing authorities of the city shall protect the burial grounds from being used for dumping grounds, building sites, playgrounds, places of entertainment and amusement, public parks, athletic fields or parking grounds.

Section 7. KRS 381.700 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

Section 8. KRS 381.710 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The fact that any tract of land has been set apart for burial purposes and that a part or all of the grounds has been used for burial purposes shall be evidence that such grounds were set aside and used for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes.

Section 9. KRS 381.715 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) As used in this section, "cemetery lot" is a lot containing one (1) or more grave spaces and located within a cemetery registered pursuant to KRS 367.946 in a county containing an urban-county government or in a city.

(2) An officer of the cemetery may cause to be filed, on behalf of the cemetery, an action in the Circuit Court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell the rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.

(3) The petition shall include the following:

(a) The name of the original owner of the burial rights in the lots in question.

(b) The name of all persons buried in the lots and the date of burial, if known.

(c) The name, address, and telephone number of the cemetery office.

(d) An affidavit by the petitioner that:

1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years; and

2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to any officer or employee of the cemetery and not discoverable after a good faith attempt by an officer or employee to identify the owner or heir.

(4) Service of process shall be by warning order attorney, appointed by the court pursuant to CR 4.07.

(5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burial rights in the lots in question abandoned and authorizing the cemetery to sell the rights.

(6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed with the cemetery a statement in writing directing that certain grave spaces not be used.

Section 10. KRS 381.720 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever in the opinion of the legislative body of a city of the first, second, third, fourth or fifth class a cemetery located within the boundaries of such city has been abandoned and the land comprising the said cemetery is needed for a public purpose, an ordinance may be enacted declaring such cemetery, as described by metes and bounds, to be abandoned and authorizing the city attorney to institute suit for the city or other governmental agency created by the city in the Circuit Court of the county in which the city is located against the property comprising the cemetery to declare the said cemetery abandoned and to vest title thereto in the said city, or any governmental agency created by it pursuant to or by authority of the Kentucky Revised Statutes.

Section 11. KRS 381.730 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Upon the filing of the complaint the city or other governmental agency created by the city shall give notice thereof by publication pursuant to KRS Chapter 424.

Section 12. KRS 381.740 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Within thirty days after the last advertisement, any party having a claim to the cemetery or any lot therein or to the mortal remains of a person interred therein, may file his claim in the said proceeding for damages as compensation for the value of his interest in the cemetery or lot to which he has claim. Upon the filing of the aforesaid claim the Circuit Court shall appoint as commissioners three impartial housekeepers who are owners of land. They shall be sworn to faithfully and impartially discharge their duties. The commissioners shall view the land involved and they may hear evidence or make any inquiry they desire touching the value thereof and award to the claimants who are owners thereof the value of the property taken. They shall return a written report to the office of the clerk of the Circuit Court describing separately the property which is the subject of each claim. Either the claimant or the complainant may file exceptions to this report and demand a jury trial. The commissioners shall be allowed a reasonable fee which shall be taxed as cost.

Section 13. KRS 381.750 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If no claim is made within thirty days after the last advertisement, or if claims have been made and compensation duly paid either to the claimants or into court, the court shall declare the cemetery to be abandoned and enter judgment accordingly, vesting fee simple title in the complainant. Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

Section 14. KRS 381.755 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) Upon application of the owner of property upon which is located an abandoned grave or cemetery or whenever the fiscal court of any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.

(2) The order or resolution for the removal and relocation of the grave or cemetery pursuant to subsection (1) shall specify and declare that at any time after the expiration of sixty days after the first publication of notice of such intended action pursuant to KRS Ch. 424, the court shall direct the removal and relocation of the grave or cemetery.

(3) Expenses for removal and relocation of any grave or cemetery under the provisions of this section shall be paid by the individual requesting such removal or if the removal is made in the best interest of the county the expenses shall be paid from county funds.

(4) Any grave or cemetery removed under the provisions of this section shall be relocated in a suitable place at the expense of the person or county requesting such removal and relocation.

(5) For the purposes of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten

years preceding the date of the resolution for removal and relocation of the grave or cemetery.

Section 15. KRS 381.760 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The cost of the proceeding shall be borne by the complainant, and the burden of proof shall be upon the claimant to establish his interest and to establish that it has not been abandoned.

Section 16. KRS 381.765 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If disinterment, removal, and reinterment of graves is effected by the Commonwealth of Kentucky or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, or any electric power or lighting company, such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed under the provisions of KRS Chapter 316; provided, however, a person holding a valid funeral director's license of another state may perform disinterment, removal and reinterment if the state in which such person is licensed has a reciprocal agreement whereby a license granted under the provisions of KRS Chapter 316 is recognized and accepted in that state.

SECTION 17. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet shall perform an inventory listing the number, location, and tribal affiliation, if known, of all Native American remains that are currently held by state-funded agencies, institutions, or universities. This list shall be reported to the General Assembly on or before January 15, 2005.

(2) The secretary of the Finance and Administration Cabinet shall perform an inventory listing of state-owned real estate, including but not limited to cemeteries that would be suitable for reinterment of Native American remains. This inventory shall be reported to the General Assembly on or before January 15, 2005.

Section 18. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(e) Effective January 1, 2005, in the case of a death in which the body or cremated remains are to be placed in a grave, vault, tomb, crypt, or niche, the specific location of the grave, vault, tomb, crypt, or niche within a cemetery shall be listed in the appropriate location on the death certificate by the individual responsible for filing the certificate of death.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the

absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and

2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment

of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SECTION 19. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Every public cemetery shall keep sufficient records of the specific location of every burial or interment in the cemetery occurring after the effective date of this Act. These records shall be kept at the cemetery's principal place of business and made available to the family of the deceased and other persons as each cemetery may determine.

(2) The records maintained shall be specific enough for an individual, after reviewing these records, to locate the specific grave, vault, tomb, crypt, or niche of an individual interred in that cemetery.

(3) Any cemetery or cemetery owner who violates subsection (1) of this section shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

HB 560, AN ACT relating to human remains and burial objects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6, 7, and 8 of this Act, unless the context requires otherwise:

(1) "Archaeological site" means any place where artifacts that are valuable for the scientific study of historic or prehistoric human life and activities may be found, including but not limited to historic and prehistoric structures, ruins, pictographs and petroglyphs, mounds, burial grounds, forts, mines, farmsteads, quarries, house sites, and industrial or commercial sites;

(2) "Archaeological survey" means a systematic examination of the ground performed under the technical supervision of an archaeologist for the purpose of identifying, recording, and reporting archaeological sites;

(3) "Archaeologist" means an individual who has a graduate degree in anthropology and at least one (1) year of full-time postgraduate experience in archaeological research, at least four (4) months of supervised field and analytic experience in general North American archaeology, and a demonstrated ability to complete research;

(4) "Artifact" means any material more than one hundred (100) years old that is made, modified, or shaped by human workmanship;

(5) "Burial ground" means a tract of land in which human remains are buried, exclusive of clandestine or criminal activities, including land that is historically, actually, or incidentally associated to the burial of human remains;

(6) "Burial object" means any item intentionally placed in a burial ground at or near the time of burial;

(7) "Cemetery" means a place used or to be used for human burials, including but not limited to one (1) or a combination of more than one (1) of the following:

(a) A burial park for interment;

(b) A mausoleum for entombment;

(c) A columbarium for inurnment;

(d) A burial ground consisting of one (1) or more marked graves; and

(e) A burial mound or other burial facility.

"Cemetery" shall not mean an individual urn or other container used for human ashes that have been lawfully cremated, unless the urn or container has been interred. The fact that any tract of land has been set apart for burial purposes shall be evidence that such grounds were set aside for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes;

(8) "Commission" means the Kentucky Native American Heritage Commission as referenced by KRS 2.230;

(9) "Council" means the Kentucky Heritage Council of the State Historic Preservation Office;

(10) "Descendant" means a documented lineal or collateral blood relative of the deceased or, in the case of a Native American, a tribal government having archaeological, historical, or other residence in the Commonwealth if no documented lineal or collateral blood relatives exist or can be identified in a reasonable time;

(11) "Excavation" means digging below the surface disturbed by plowing or digging in a rock shelter, cave, or burial mound by hand or with mechanical equipment for the purpose of recovering artifacts, human remains, or burial objects;

(12) "Historic" means peoples and cultures who are known through contemporaneous written documents in their own or other languages, and as applied to archaeological sites and artifacts, any site or artifact that is at least one hundred (100) years old;

(13) "Human remains" means bodies, portions of bodies, or skeletal or dental materials that are exclusively associated with an archaeological site or with a cemetery. "Human remains" does not mean any bodies, parts of bodies, or skeletal or dental materials that are within the purview of the Office of the State Medical Examiner, the coroner, or a licensed physician;

(14) "Plan" means an archaeological plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about past life and culture;

(15) "Prehistoric" means people and cultures who are unknown through contemporaneous written documents in any language;

(16) "State tribal group" means any group or community of Native Americans recognized by the Commonwealth;

(17) "Surface collecting" means walking fields, stream banks, or other locations to look for and collect artifacts that are lying on the surface of the ground, that are partially exposed on the surface of the ground, or that have been disturbed by agricultural plowing or natural processes of erosion; and

(18) "Tribal government" means any tribe, band, or nation of Native Americans recognized by the United States government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) No person shall conduct an excavation of an archaeological site on private property without obtaining a permit issued by the council. A person desiring to conduct an excavation of an archaeological site on private property shall apply for a permit by filing a written plan with the council for its approval.

(2) The council shall issue a permit to excavate at the archaeological site if the council determines that the plan will:

(a) Be done in a manner consistent with professional archaeological practice; and

(b) Be conducted under the supervision of a professional archaeologist.

(3) The council may place reasonable restrictions upon any activities undertaken under the permit. The restrictions shall be in writing and shall be presented to the person making application at the time the permit is issued.

(4) An application for a permit shall be approved or denied within thirty (30) days of the council's receipt of the application. The council shall provide a written explanation to any person whose application for a permit is denied.

(5) All activity conducted on the site shall conform to the permit and any restrictions placed thereon. Any modifications to the plan shall be submitted in writing for the council's approval, and a copy of the permit shall be maintained on the site during the course of the excavation.

(6) A person aggrieved by a decision of the council may appeal the decision to the Circuit Court of the county in which the archaeological site is located. The council shall be a necessary party to any appeal.

(7) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. In addition to any other penalty imposed, all tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects, shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating subsection (1) of this section shall reimburse the landowner for the cost of restoring and repairing any damage done to the land or to the site.

(8) This section shall not apply to:

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350;

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f and its implementing regulations, 36 C.F.R. Part 800, as amended; and

(c) Surface collecting and archaeological surveys.

(9) The council shall promulgate administrative regulations establishing a process by which applications shall be made and considered under subsections (1) to (5) of this section. The regulations at a minimum shall address:

(a) The conditions by which a plan shall be deemed consistent with professional archaeological practice;

(b) The conditions to be met to satisfy the supervision requirement set out in paragraph (2)(b) of this section; and

(c) The circumstances warranting the imposition of reasonable restrictions under subsection (3) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) (a) The owner of the land on which a cemetery is located shall maintain its integrity and shall permit reasonable ingress to and egress from the location of the burial to the descendants and family members of persons buried

in the cemetery, subject to the following conditions:

1. Reasonable notice shall be given by the descendants and family members to the landowner and the occupant of the land, if different, of their intention to access the land where the deceased is buried;

2. The access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

3. The access route shall be designated by the landowner or by an obvious access route that is visible from view of the property;

4. The time and manner of access shall be designated by the landowner and both shall be reasonable; and

5. Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, the cemetery, or grave sites, and they shall be liable to the owner of the private lands for any damage caused as a result of their access.

(b) A landowner who violates the provisions of paragraph (a) of this subsection shall be guilty of a Class B misdemeanor.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth as provided in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative nor shall it alter any easements, licenses, privileges, or other dedications that grant the right to visit the grave sites of deceased relatives and that are in existence on the effective date of this Act.

(3) Any person denied reasonable access under the provisions of subsection (1) of this section may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. In granting any relief, the court may set the frequency of access, hours, and duration of the access.

(4) Human remains found on the surface or unearthed in an unauthorized excavation of a cemetery or a known or unknown burial ground shall escheat to and become the responsibility of the state unless the remains are claimed by the descendants or family members of the person buried or the rights to the remains are waived by the descendants or family members of the person buried. Human remains that are the property of the state shall be reinterred in their total parts, except for autopsy samples, in suitable and designated burial sites under state control and maintenance within three (3) years of being found. If more than twenty-five (25) separate human bodies or parts thereof are located in a single site, the bodies shall be reinterred within five (5) years from the date of the exhumation. If the human remains are found to be of Native American origin, representatives of tribal governments as established in federal law or state tribal groups as established in state law shall conduct the reinterment upon the descendants' or family members' request and approval by the commission.

(5) This section shall not apply to:

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350; and

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f, and its implementing regulations, 36 C.F.R. Part 800, as amended.

SECTION 4. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) A person encountering or accidentally disturbing or disinterring human remains shall comply with the provisions of KRS 72.020 and 213.076.

(2) The coroner shall notify the council if he or she, the state medical examiner, and local law enforcement personnel have no forensic or criminal concerns about the human remains at the site.

(3) If the human remains reported to the council are associated with a cemetery that has been disturbed by accident, maintaining the cemetery's integrity shall be the responsibility of the landowner and shall be subject to the conditions set out in subsection (1) of Section 3 of this Act. The council shall advise the landowner of the steps to be taken to stabilize, repair, and document the disturbance to the cemetery. If relocation of the cemetery is necessary, the landowner shall comply with the relocation procedures specified in KRS 381.755.

(4) If human remains are found on the surface or unearthed in an unauthorized excavation of a cemetery or burial ground, the human remains shall, unless claimed by any lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried, become the property of the state and shall be treated in accordance with subsection (4) of Section 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Any person or institution wishing to possess human remains or burial objects, other than human remains lawfully cremated, shall apply for and obtain a permit from the Office of Vital Statistics. The permit provided under this subsection shall not be issued until after the Office of Vital Statistics has consulted with the state medical examiner and

the council.

(2) The Office of Vital Statistics shall issue a permit to the applicant only if the office and the state medical examiner determine that the human remains or burial objects are to be possessed for teaching, medical, scientific, or educational purposes.

(3) The Office of Vital Statistics shall approve or deny the issuance of a permit within thirty (30) days of receiving the applicant's request. If the applicant is denied a permit, the office shall provide the applicant with a written explanation for the denial.

(4) Any person who is aggrieved by the Office of Vital Statistic's denial of a permit may appeal to the Circuit Court of the county in which the human remains or burial objects are located. The office shall be a necessary party to any appeal.

(5) A permit issued under this section shall name the person or institution authorized to possess the human remains or burial objects and the manner by which the human remains or burial objects shall be disposed of following their use.

(6) The possession, utilization, or disposition of human remains or burial objects without a permit or other lawful authority or in a manner contrary to a permit issued under this section shall be a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. All human remains or burial objects possessed or used in violation of this section shall be seized and shall, unless claimed by the lawful descendants or family members of the person buried or the rights to the remains or objects have been waived by the descendants, become the property of the state and shall be treated in accordance with subsection (4) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of items forfeited shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and burial objects.

(7) This section shall not apply to human remains or burial objects acquired prior to the effective date of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) No exhumation of human remains or burial objects may be conducted except with a permit issued by the Office of Vital Statistics.

(2) Exhumation of human remains or burial objects without a permit is a Class D felony. Upon arrest under this subsection, all human remains and burial objects shall be treated in accordance with subsection (4) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.

Section 7. KRS 525.105 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, *the person knowingly disturbs*[~~he intentionally excavates~~] or disinters human remains *or burial objects*[~~for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains~~].

(2) Desecration of venerated objects in the first degree is a Class C felony. *Upon arrest for the desecration of venerated objects, all human remains and burial objects shall be seized and, upon the defendant's conviction, shall become the property of the Commonwealth, unless the human remains and burial objects are claimed by the lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried. Human remains and burial objects that are the property of the state shall be treated in accordance with subsection (4) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disturbance or disinterment and the vehicles used for transporting human remains or burial object shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.*

Section 8. KRS 525.120 is amended to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities *or exhibits, alters, or discards human remains. A corpse or human remains treated in a manner in violation of this subsection shall be seized and shall become the responsibility of the Commonwealth if the lawful descendants of the corpse are not found or if the lawful descendants waive their rights to the corpse. A person found guilty of abusing a corpse shall be ordered to reimburse the Commonwealth for the cost of properly disposing of the corpse or human remains*.

(2) A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or

cremate that corpse in accordance with that contract.

(3)[~~(2)~~] Abuse of a corpse is a[~~ Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a~~] Class D felony.

The Committee Substitute to **HB 560** is as follows:

HB 560, AN ACT relating to human remains and burial objects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6, 7, and 8 of this Act, unless the context requires otherwise:

(1) "Archaeological site" means any place where artifacts that are valuable for the scientific study of historic or prehistoric human life and activities may be found, including but not limited to historic and prehistoric structures, ruins, pictographs and petroglyphs, mounds, burial grounds, forts, mines, farmsteads, quarries, house sites, and industrial or commercial sites;

(2) "Archaeological survey" means a systematic examination of the ground performed under the technical supervision of an archaeologist for the purpose of identifying, recording, and reporting archaeological sites;

(3) "Archaeologist" means an individual who has a graduate degree in anthropology and at least one (1) year of full-time postgraduate experience in archaeological research, at least four (4) months of supervised field and analytic experience in general North American archaeology, and a demonstrated ability to complete research;

(4) "Artifact" means any material more than one hundred (100) years old that is made, modified, or shaped by human workmanship;

(5) "Burial ground" means a tract of land in which human remains are buried, exclusive of clandestine or criminal activities, including land that is historically, actually, or incidentally associated to the burial of human remains;

(6) "Burial object" means any item intentionally placed in a burial ground at or near the time of burial;

(7) "Cemetery" means a place used or to be used for human burials, including but not limited to one (1) or a combination of more than one (1) of the following:

(a) A burial park for interment;

(b) A mausoleum for entombment;

(c) A columbarium for inurnment;

(d) A burial ground consisting of one (1) or more marked graves; and

(e) A burial mound or other burial facility.

"Cemetery" shall not mean an individual urn or other container used for human ashes that have been lawfully cremated, unless the urn or container has been interred. The fact that any tract of land has been set apart for burial purposes shall be evidence that such grounds were set aside for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes;

(8) "Commission" means the Kentucky Native American Heritage Commission as referenced by KRS 2.230;

(9) "Council" means the Kentucky Heritage Council of the State Historic Preservation Office;

(10) "Descendant" means a documented lineal or collateral blood relative of the deceased or, in the case of a Native American, a tribal government having archaeological, historical, or other residence in the Commonwealth if no documented lineal or collateral blood relatives exist or can be identified in a reasonable time;

(11) "Excavation" means digging below the surface disturbed by plowing or digging in a rock shelter, cave, or burial mound by hand or with mechanical equipment for the purpose of recovering artifacts, human remains, or burial objects;

(12) "Historic" means peoples and cultures who are known through contemporaneous written documents in their own or other languages, and as applied to archaeological sites and artifacts, any site or artifact that is at least one hundred (100) years old;

(13) "Human remains" means bodies, portions of bodies, or skeletal or dental materials that are exclusively associated with an archaeological site or with a cemetery. "Human remains" does not mean any bodies, parts of bodies, or skeletal or dental materials that are within the purview of the Office of the State Medical Examiner, the coroner, a state medical school, or a licensed physician;

(14) "Plan" means an archaeological plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about past life and culture;

(15) "Prehistoric" means people and cultures who are unknown through contemporaneous written documents in any

language;

(16) "State tribal group" means any group or community of Native Americans recognized by the Commonwealth;

(17) "Surface collecting" means walking fields, stream banks, or other locations to look for and collect artifacts that are lying on the surface of the ground, that are partially exposed on the surface of the ground, or that have been disturbed by agricultural plowing or natural processes of erosion; and

(18) "Tribal government" means any tribe, band, or nation of Native Americans recognized by the United States government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Except for any lawful investigatory purpose authorized by law, no person shall conduct an excavation of an archaeological site on private property without obtaining a permit issued by the council. A person desiring to conduct an excavation of an archaeological site on private property shall apply for a permit by filing a written plan with the council for its approval.

(2) The council shall issue a permit to excavate at the archaeological site if the council determines that the plan will:

(a) Be done in a manner consistent with professional archaeological practice; and

(b) Be conducted under the supervision of a professional archaeologist.

(3) The council may place reasonable restrictions upon any activities undertaken under the permit. The restrictions shall be in writing and shall be presented to the person making application at the time the permit is issued.

(4) An application for a permit shall be approved or denied within thirty (30) days of the council's receipt of the application. The council shall provide a written explanation to any person whose application for a permit is denied.

(5) All activity conducted on the site shall conform to the permit and any restrictions placed thereon. Any modifications to the plan shall be submitted in writing for the council's approval, and a copy of the permit shall be maintained on the site during the course of the excavation.

(6) A person aggrieved by a decision of the council may appeal the decision to the Circuit Court of the county in which the archaeological site is located. The council shall be a necessary party to any appeal.

(7) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. In addition to any other penalty imposed, all tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects, shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating subsection (1) of this section shall reimburse the landowner for the cost of restoring and repairing any damage done to the land or to the site.

(8) This section shall not apply to:

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350;

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f and its implementing regulations, 36 C.F.R. Part 800, as amended; and

(c) Surface collecting and archaeological surveys.

(9) The council shall promulgate administrative regulations establishing a process by which applications shall be made and considered under subsections (1) to (5) of this section. The regulations at a minimum shall address:

(a) The conditions by which a plan shall be deemed consistent with professional archaeological practice;

(b) The conditions to be met to satisfy the supervision requirement set out in paragraph (2)(b) of this section; and

(c) The circumstances warranting the imposition of reasonable restrictions under subsection (3) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice of no less than three (3) days shall be given by the descendants and family members to the owner and the occupant, if different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of those graves or burial sites;

(c) Access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or limited to an obvious access route that is visible from view of the property. The owner shall not be required to create a road for access;

(e) The time and manner of access shall be reasonable and designated in writing signed by the descendants or family members and the landowner. Access shall include nonvehicular access;

(f) No state administrative regulation or county ordinance shall require paving, graveling, or fencing off of an access route to a cemetery or grave. Maintenance of access routes shall be agreed upon by the landowner and the descendants and shall not place an undue financial burden on the landowner. Any new road for access completed after a negotiated agreement with the landowner shall be at the expense of the descendants;

(g) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, cemetery, or grave sites, and shall be liable to the owner of the private lands for any damage caused as a result of their access; and

(h) Nothing shall require the landowner to build any fences or supply gates, but if the descendants negotiate for an access route, any fencing, road creation, or maintenance shall be at the expense of the descendants. The access route shall not interfere with the landowner's operation.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth that is recognized by the General Assembly in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other dedications which grant the right to visit the grave sites of deceased relatives and are in existence on the effective date of this Act.

(3) Any person denied reasonable access under the provisions of subsection (1) of this section may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. In granting any relief, the court may set the frequency of access, hours, and duration of the access.

(4) A landowner who violates the provisions of this section shall be guilty of a Class B misdemeanor.

(5) Human remains found on the surface or unearthed in an unauthorized excavation of a cemetery or a known or unknown burial ground shall escheat to and become the responsibility of the state unless the remains are claimed by the descendants or family members of the person buried or the rights to the remains are waived by the descendants or family members of the person buried. Human remains that are the property of the state shall be reinterred in their total parts, except for autopsy samples, in suitable and designated burial sites under state control and maintenance within three (3) years of being found. If more than twenty-five (25) separate human bodies or parts thereof are located in a single site, the bodies shall be reinterred within five (5) years from the date of the exhumation. If the human remains are found to be of Native American origin, representatives of tribal governments as established in federal law or state tribal groups as established in state law shall conduct the reinterment upon the descendants' or family members' request and approval by the commission.

(6) This section shall not apply to:

(a) The treatment of cemeteries, abandoned cemeteries, or archaeological sites as a result of surface coal mining conducted in accordance with a permit issued under KRS Chapter 350; and

(b) Archaeological investigations and data recovery projects conducted under Section 1065 of the Federal National Historic Preservation Act of 1966, 16 U.S.C. sec. 470f, and its implementing regulations, 36 C.F.R. Part 800, as amended.

SECTION 4. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) A person encountering or accidentally disturbing or disinterring human remains shall comply with the provisions of KRS 72.020 and 213.076.

(2) The coroner shall notify the council if he or she, the state medical examiner, and local law enforcement personnel have no forensic or criminal concerns about the human remains at the site.

(3) If the human remains reported to the council are associated with a cemetery that has been disturbed by accident, maintaining the cemetery's integrity shall be the responsibility of the landowner and shall be subject to the conditions set out in subsection (1) of Section 3 of this Act. The council shall advise the landowner of the steps to be taken to stabilize, repair, and document the disturbance to the cemetery. If relocation of the cemetery is necessary, the landowner shall comply with the relocation procedures specified in KRS 381.755.

(4) If human remains are found on the surface or unearthed in an unauthorized excavation of a cemetery or burial ground, the human remains shall, unless claimed by any lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried, become the property of the state and shall be treated in accordance with subsection (5) of Section 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Any person or institution wishing to possess human remains or burial objects, other than human remains lawfully cremated, shall apply for and obtain a permit from the Office of Vital Statistics. The permit provided under this subsection shall not be issued until after the Office of Vital Statistics has consulted with the state medical examiner and the council.

(2) The Office of Vital Statistics shall issue a permit to the applicant only if the office and the state medical examiner determine that the human remains or burial objects are to be possessed for teaching, medical, scientific, or educational purposes.

(3) The Office of Vital Statistics shall approve or deny the issuance of a permit within thirty (30) days of receiving the applicant's request. If the applicant is denied a permit, the office shall provide the applicant with a written explanation for the denial.

(4) Any person who is aggrieved by the Office of Vital Statistic's denial of a permit may appeal to the Circuit Court of the county in which the human remains or burial objects are located. The office shall be a necessary party to any appeal.

(5) A permit issued under this section shall name the person or institution authorized to possess the human remains or burial objects and the manner by which the human remains or burial objects shall be disposed of following their use.

(6) The knowing possession, utilization, or disposition of human remains or burial objects without a permit or other lawful authority or in a manner contrary to a permit issued under this section shall be a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense. All human remains or burial objects possessed or used in violation of this section shall be seized and shall, unless claimed by the lawful descendants or family members of the person buried or the rights to the remains or objects have been waived by the descendants, become the property of the state and shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of items forfeited shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and burial objects.

(7) This section shall not apply to human remains or burial objects acquired prior to the effective date of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Except for any lawful investigatory purpose authorized by law, no exhumation of human remains or burial objects may be conducted except with a permit issued by the Office of Vital Statistics.

(2) Exhumation of human remains or burial objects without a permit is a Class D felony. Upon arrest under this subsection, all human remains and burial objects shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disinterment and the vehicles used for transporting human remains or burial objects shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.

Section 7. KRS 525.105 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, *the person knowingly disturbs*[~~he intentionally excavates~~] or disinters human remains *or burial objects*[~~for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains~~].

(2) Desecration of venerated objects in the first degree is a Class C felony. *Upon arrest for the desecration of venerated objects, all human remains and burial objects shall be seized and, upon the defendant's conviction, shall become the property of the Commonwealth, unless the human remains and burial objects are claimed by the lawful descendants or family members of the person buried or the rights in the human remains are waived by the descendants or family members of the person buried. Human remains and burial objects that are the property of the state shall be treated in accordance with subsection (5) of Section 3 of this Act. In addition to any other penalty imposed, the tools, implements, or other items used in the disturbance or disinterment and the vehicles used for transporting human remains or burial object shall be seized and, upon the defendant's conviction, forfeited to the Commonwealth to be sold at public auction. The proceeds from the sale of all forfeitures shall go to the council for the purpose of administering Sections 1 to 6 of this Act. Additionally, any person found guilty of violating this section shall reimburse the Commonwealth for the cost of properly disposing of the human remains and the landowner for the cost of restoring any damage done to the land.*

Section 8. KRS 525.120 is amended to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities *or exhibits, alters, or discards human remains. A corpse or human remains treated in a manner in violation of this subsection shall be seized and shall become the responsibility of the Commonwealth if the lawful descendants of the corpse are not found or if the lawful descendants waive their rights to the corpse. A person found guilty of abusing a corpse shall be ordered to reimburse the Commonwealth for the cost of properly disposing of the corpse or human remains*.

(2) A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.

(3)[~~(2)~~] Abuse of a corpse is a[~~ Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated, in which case it is a~~] Class D felony.

HB 597, AN ACT relating to special private club licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.270 is amended to read as follows:

(1) A special private club license may be issued to*:*

(a) Any nonprofit social, fraternal, military, or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded*; or*

(b) Any local chapter of a national fraternal society, order, or association operating under the lodge system, which possesses tax exempt status under 26 U.S.C. secs. 501(c)(8) or 501(c)(10), or is covered under a group ruling issued by the Internal Revenue Service under authority of that section.

(2) This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded.

HB 598, AN ACT relating to private clubs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.

(5) *In any county containing a city of the first, second, third, or fourth class, or any city of the first, second, third, or fourth class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour in that locality at private clubs licensed under KRS 243.270.*

(6) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(7)[~~(6)~~] Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state administrator and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

The Committee Substitute to **HB 598** is as follows:

HB 598, AN ACT relating to private clubs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.

(5) ***In any county containing a city of the first, second, third, or fourth class, or any city of the first, second, third, or fourth class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour in that locality at private clubs licensed under KRS 243.270.***

(6) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(7)[~~(6)~~] Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state administrator and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

Section 2. KRS 244.295 is amended to read as follows:

(1) In any county containing an urban-county government, a premises that has been granted a license for the sale of distilled spirits or wine at retail shall not be permitted to remain open for any purpose between midnight and 6 a.m., or at any time during the twenty-four (24) hours of a Sunday, or during the hours the polls are open on any regular or primary election day unless the licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and the department is kept locked during the time mentioned above. The licensee shall be deemed to have complied with this section; except that the legislative body of an urban-county government in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries. Provided, however, distilled spirits or wine may not be sold in any portion of a county containing an urban-county government during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsections (2) and (3) of this

section, and distilled spirits or wine may not be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours in which the licensee is prohibited from selling same.

(2) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of such urban-county government may by resolution or ordinance submit to the electorate a proposal to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour specified in the proposal by hotels, motels, convention centers, convention hotel complexes, restaurants, racetracks, and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of gross annual income from dining facilities by the sale of food. The proposal to be submitted to the electorate shall be so framed that any voter who wishes to vote in favor of the limited Sunday sales of distilled spirits and wine by the drink may signify his approval by voting "yes" and any voter who wishes to vote against the limited Sunday sales of distilled spirits and wine by the drink may do so by voting "no." The election shall be held on a date stipulated by the legislative body, and the cost of the election shall be borne by the urban-county government. The proposal shall be published pursuant to KRS Chapter 424 and shall also be advertised by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election. The general election laws, including penalties for violations, shall apply to the election, except where those laws are inconsistent with the provisions of this section. The proposal submitted to the electorate shall be effective immediately if a majority of those voting on the proposal shall vote "yes."

(4) ***In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the urban-county government may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour in that locality at private clubs licensed under KRS 243.270.***

(5) In any county containing an urban-county government in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2)*,* ~~[and]~~(3)***, and (4)*** of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

HB 708, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.443 is amended to read as follows:

No quarter horse or Appaloosa foaled by artificial insemination shall be eligible to race under the provisions of this chapter*.*~~[, but]~~ Arabian horses foaled by artificial insemination shall be eligible to race under the provisions of this chapter.

The Committee Substitute to **HB 708** is as follows:

HB 708, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.443 is amended to read as follows:

~~[No]~~Quarter ***horses, Appaloosas, and Arabian horses***~~[horse or Appaloosa]~~ foaled by artificial insemination ***or other means*** shall be eligible to race under the provisions of this chapter~~[, but Arabian horses foaled by artificial insemination shall be eligible to race under the provisions of this chapter]~~.

Calendar

HB 537, HCR 190, 202, HB 78, 438, 65, 198, 234, 523, 570, 572, HR 139, HB 320, 493, 588, and **HCR 161** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 295, 341, HCR 23, 24, 31, 34,** and **HCR 66** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:20 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 65, 198, 234, 570, 572, 588, HCR 161, 190, 202, HR 139, HB 413, 434, 435, 436, 227,** and **540** have been posted for passage in the Regular Orders of the Day for March 4, 2004.

Orders of the Day

HJR 142 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Belcher moved that **HJR 142** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 3, 2004, roll call on **HJR 142** - Appendix.)

HJR 142 was adopted.

Representative Belcher moved that the vote by which **HJR 142** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 304, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 304**. Agreed.

Representative Cherry moved that **HB 304**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 62, Nays 31**. (See March 3, 2004, roll call on **HB 304** - Appendix.)

HB 304, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 304**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 447, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 447**. Agreed.

Representative Wilkey moved that **HB 447**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 3, 2004, roll call on **HB 447** - Appendix.)

HB 447, by way of Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 447**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 112 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HCR 112** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 3, 2004, roll call on **HCR 112** - Appendix.)

HCR 112 was adopted.

Representative Weaver moved that the vote by which **HCR 112** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 261, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved the adoption of Floor Amendment No. 1 to **HB 261**. Agreed.

Representative Feeley moved that **HB 261**, as amended, be passed.

Representative Marzian moved the adoption of Floor Amendment No. 2 to **HB 261**.

Representative Ford inquired whether Floor Amendment No. 2 is germane.

The Speaker ruled that Floor Amendment No. 2 is a piggyback amendment and is not germane.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 295, 341, HCR 23, 24, 31, 34,** and **66** were delivered to the Senate and signed by the President. Delivered to the Governor on March 3, 2004, at 2:32 p.m.

Orders of the Day (Continued)

Representative Feeley moved that **HB 261**, as amended, be passed.

On the roll call the vote was: **Yeas 64, Nays 30**. (See March 3, 2004, roll call on **HB 261** - Appendix.)

HB 261, as amended, was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 261**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 148, 171, 181, 222, SJR 80,** and **HB 200**.

Message received in regard to **HJR 98**: The Senate has passed **HJR 98** with the following Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (3:30 p.m.)

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HB 98, HR 189, HB 648,** and **700**. Agreed.

Representative Adkins moved that the rules be suspended and that **HB 664** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bather moved that he be recorded as voting "yea" on **HB 261**. Agreed.

Representative Upchurch moved to withdraw Floor Amendment No. 1 to **HB 459**. Agreed.

Representative Crall moved that the rules be suspended to act on a Resolution. Agreed.

Representative Crall moved the adoption of the following **HR 171**:

HR 171, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Wilma D. Colby.

With deepest respect and admiration, we pay homage and tribute to Wilma D. Colby, and we pause in silent reverence for her soul.

WHEREAS, Wilma D. Colby was born on September 16, 1914, a native of Indiana, and longtime resident of Owensboro, Daviess County, Kentucky, and she traversed these earthly bounds on January 2, 2004; and

WHEREAS, Wilma D. Colby was the loving daughter of the late Mamie and Harry Dobson; she was the devoted and loving mother of two children, Nancy Eskridge and Susan Tiemersma; she was the proud grandmother of four grandchildren, Bryan, Allen, Gigi, and Doug; and she was the proud great-grandmother of two great-grandchildren, Emma and Chase; and

WHEREAS, Wilma D. Colby was a devout member of Wesleyan Heights Methodist Church in Owensboro; and when we remember Wilma D. Colby, we are reminded of her devotion to her family, and the many friends she made and sustained through the years; and

WHEREAS, the passing of Wilma D. Colby has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Wilma D. Colby, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Wilma D. Colby.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Brian Crall for presentation to the family of Wilma D. Colby.

There being no objection, **HR 171** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Economic Development: **HB 649**

Health and Welfare: **HB 98, HR 189, HJR 211, HB 671, 672**

Judiciary: **HB 594**

Labor and Industry: **HB 677**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 48, HB 222**, with Committee Substitute attached thereto, **HB 374, HB 547**, with Committee Substitute attached thereto, **HB 550**, with Committee Substitute attached thereto, **HB 563**, and **SB 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 48, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) An employer who provides information about the job performance, professional conduct, or evaluation of a former or

current employee to a prospective employer of that employee, at the request of that employee or prospective employer, shall be immune from civil liability arising out of the disclosure unless the plaintiff in the civil action proves:

(a) That the employer disclosed the information knowing that it was false, with reckless disregard of whether it was true or false, or with intent to mislead the prospective employer; or

(b) That the disclosure of the information by the employer constitutes an unlawful discriminatory practice under KRS Chapter 344.

(2) This section does not create a new cause of action or substantive legal right against an employer.

(3) This section does not limit an employer's immunity from civil liability or defenses established in another section of the Kentucky Revised Statutes or available at common law.

HB 222, AN ACT relating to real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

(1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.

(2) A proceeding may be filed by any owner of real property or any party acquiring an interest in the real property in District Court or Circuit Court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.

(3) Upon proof to the court of the lien being satisfied, the court shall enter a judgment releasing the lien. The judgment shall be with costs including a reasonable attorney's fee. If the court finds that the lienholder received written notice of its failure to release and lacked good cause for not releasing the lien, the lienholder shall be liable to the owner of the real property ***or to the party with an interest in the real property*** in the amount of one hundred dollars ($100) per day for each day, beginning on the fifteenth day after receipt of the written notice, of the violation for which good cause did not exist.

(4) A lienholder that continues to fail to release a satisfied real estate lien, without good cause, within forty-five (45) days from the date of written notice shall be liable to the owner of the real property ***or to the party with an interest in the real property*** for an additional four hundred dollars ($400) per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice, for a total of five hundred dollars ($500) per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice. The lienholder shall also be liable for any actual expense including a reasonable attorney's fee incurred by the owner ***or by the party with an interest in the real property*** in securing the release of real property by such violation.

(5) The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner ***or to the party with an interest in the real property*** at his last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property ***or to the party with an interest in the real property*** for fifty dollars ($50) and any actual expense incurred by the owner ***or by the party with an interest in the real property*** in obtaining documentation of the lien release.

(6) For the purposes of this section, "date of satisfaction" means that date of receipt by a holder of a lien on real property of a sum of money in the form of a certified check, cashier's check, wired transferred funds, or other form of payment satisfactory to the lienholder that is sufficient to pay the principal, interest, and other costs owing on the obligation that is secured by the lien on the property.

(7) The provisions of this section shall not apply when a lienholder is deceased and the estate of the lienholder has not been settled.

(8) The state licensing agency, if applicable, or any holder of a lien on real property shall be notified of the disposition of any actions brought under this section against the lienholder.

(9) The provisions of this section shall be held and construed as ancillary and supplemental to any other remedy provided by law.

The Committee Substitute to **HB 222** is as follows:

HB 222, AN ACT relating to real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

(1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.

(2) A proceeding may be filed by any owner of real property or any party acquiring an interest in the real property in District Court or Circuit Court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section

shall be given precedence over other matters pending before the court.

(3) Upon proof to the court of the lien being satisfied, the court shall enter a judgment releasing the lien. The judgment shall be with costs including a reasonable attorney's fee. If the court finds that the lienholder received written notice of its failure to release and lacked good cause for not releasing the lien, the lienholder shall be liable to the owner of the real property ***or to the party with an interest in the real property*** in the amount of one hundred dollars ($100) per day for each day, beginning on the fifteenth day after receipt of the written notice, of the violation for which good cause did not exist.

(4) A lienholder that continues to fail to release a satisfied real estate lien, without good cause, within forty-five (45) days from the date of written notice shall be liable to the owner of the real property ***or to the party with an interest in the real property*** for an additional four hundred dollars ($400) per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice, for a total of five hundred dollars ($500) per day for each day for which good cause did not exist after the forty-fifth day from the date of written notice. The lienholder shall also be liable for any actual expense including a reasonable attorney's fee incurred by the owner ***or by the party with an interest in the real property*** in securing the release of real property by such violation.

(5) The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner ***or to the party with an interest in the real property*** at his last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property ***or to the party with an interest in the real property*** for fifty dollars ($50) and any actual expense incurred by the owner ***or by the party with an interest in the real property*** in obtaining documentation of the lien release.

(6) For the purposes of this section, "date of satisfaction" means that date of receipt by a holder of a lien on real property of a sum of money in the form of a certified check, cashier's check, wired transferred funds, or other form of payment satisfactory to the lienholder that is sufficient to pay the principal, interest, and other costs owing on the obligation that is secured by the lien on the property.

(7) The provisions of this section shall not apply when a lienholder is deceased and the estate of the lienholder has not been settled.

(8) The state licensing agency, if applicable, or any holder of a lien on real property shall be notified of the disposition of any actions brought under this section against the lienholder.

(9) The provisions of this section shall be held and construed as ancillary and supplemental to any other remedy provided by law.

(10) If more than one (1) party recovers damages from the lienholder in a proceeding brought under this section, the amount of damages shall be equally allocated among the recovering parties. The entry of a judgment awarding damages shall bar a subsequent action by any other person to recover damages for the same violation.

HB 374, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(5) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without limitation:

(a) A Commonwealth's attorney or assistant Commonwealth's attorney;

(b) ***A state probation and parole officer;***

(c) A county attorney or assistant county attorney;

(d)[~~(c)~~]A justice or judge of the Court of Justice; and

(e)[~~(d)~~]A retired or senior status justice or judge of the Court of Justice.

A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.

(6) The following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

(a) An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;

(b) An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer;

(c) The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed;

(7) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

HB 547, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.992 is amended to read as follows:

(1) Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who***,***[~~ was~~] at the time of the commission of the offense***, used or carried***[~~ in possession of~~] a firearm, shall:

(a) Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony; or

(b) Be penalized as a Class D felon if the offense would otherwise be a misdemeanor.

(2) The provisions of this section shall not apply to a violation of KRS 218A.210.

The Committee Substitute to **HB 547** is as follows:

HB 547, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.992 is amended to read as follows:

(1) Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who***, during and in relation to***[~~ was at the time of~~] the commission of the offense***, used or carried***[~~ in possession of~~] a firearm, ***or who, in furtherance of any such crime, possesses a firearm,*** shall:

(a) Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony; or

(b) Be penalized as a Class D felon if the offense would otherwise be a misdemeanor.

(2) The provisions of this section shall not apply to a violation of KRS 218A.210.

HB 550, AN ACT relating to the Department of Juvenile Justice and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a) Prevention of juvenile crime;

(b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;

(c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;

(d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(g) Conducting research and comparative experiments to find the most effective means of:

1. Preventing delinquent behavior;

2. Identifying predelinquent youth;

3. Preventing predelinquent youth from becoming delinquent;

4. Assessing the needs of predelinquent and delinquent youth;

5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

(h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:

(a) Bidding process; and

(b) Emergency acquisition process.

(4) The Department of Juvenile Justice shall develop programs to:

(a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;

(b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and

(c) Provide mental health services to committed youth according to their needs.

(5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for Families and Children, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the

Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.

(b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:

1. Three (3) current or former participants in the juvenile justice system;
2. An employee of the Department of Juvenile Justice;
3. An employee of the Cabinet for Families and Children;
4. A person operating alternative detention programs;
5. An employee of the Department of Education;
6. An employee of the Department of Public Advocacy;
7. An employee of the Administrative Office of the Courts;
8. A representative from a private nonprofit organization with an interest in youth services;
9. A representative from a local juvenile delinquency prevention council;
10. A member of the Circuit Judges Association;
11. A member of the District Judges Association;
12. A member of the County Attorneys Association;
13. A member of the County Judge/Executives Association;
14. A person from the business community not associated with any other group listed in this paragraph;
15. A parent not associated with any other group listed in this paragraph;
16. A youth advocate not associated with any other group listed in this paragraph;
17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
18. A local school district special education administrator not associated with any other group listed in this paragraph;
19. A peace officer not associated with any other group listed in this paragraph; and
20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.

(c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.

(6) The Department of Juvenile Justice shall, in cooperation with the Department of Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall promulgate an administrative regulation to govern at least the following aspects of this subsection:

(a) Facility access;

(b) Scheduling; and

(c) Access to residents' records.

(7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

Section 2. KRS 610.220 is amended to read as follows:

(1) Except as otherwise provided by statute, if an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, youth alternative center, a nonsecure facility, or, as necessary, in a hospital or clinic for the following purposes:

  (a) Identification and booking;

  (b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;

  (c) Photographing;

  (d) Fingerprinting;

  (e) Physical examinations, including examinations for evidence;

  (f) Evidence collection, including scientific tests;

  (g) Records checks;

  (h) Determining whether the child is subject to trial as an adult; and

  (i) Other inquiries of a preliminary nature.

(2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type listed in subsection (1) of this section except for an intermittent holding facility for the period of retention.

(3) Any child held in custody pursuant to this section shall be sight and sound separated from any adult prisoners held in secure custody at the same location***, and shall not be handcuffed to or otherwise securely attached to any stationary object***.

Section 3. KRS 610.265 is amended to read as follows:

(1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays pending a detention hearing.

(2) (a) Within the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

  (b) If the court orders a child detained further after the detention hearing, that detention shall be served as follows:

    1. If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.

    2. If it is alleged that the child is a status offender, detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.

    3. If a status offender is charged with violating a valid court order, and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph.

    4. Prior to ordering a status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:

      a. Affirm that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;

      b. Make a determination during the detention hearing that there is probable cause to believe that the child violated the valid court order; and

      c. Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receive an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receive and review a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.

5. If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.

6. If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.

(c) ***If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in Section 4 of this Act.***

(d) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 4. KRS 610.290 is amended to read as follows:

(1) Unless a hearing is held within the time frame established by KRS 610.265, and the necessity for detention properly established, the child shall be released to the custody of his parents, person exercising custodial control or supervision or other responsible adult pending further disposition of the case.

(2) ***The***~~[A]~~ child shall have a right to counsel at his detention hearing determining his right to freedom pending the disposition of his case, and his parents, person exercising custodial control or supervision or other responsible adult shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the Circuit Court.

(3)~~[(2)]~~ Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, person exercising custodial control or supervision or other responsible adult shall be given written notice of the time and place of the adjudicatory hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 5. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency; or

(2) Place the child~~[on probation, home incarceration, or]~~ under ***parental*** supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine***, or place the child on probation under conditions that the court shall determine and sanctions that may be imposed if the conditions are violated***. A child placed on probation~~[, home incarceration, or supervision]~~ shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice~~[and, unless the court's order contains a specific sanction to be imposed in the event that a violation of probation occurs, a violation of probation may result in commitment]~~. Except as provided in KRS 635.083, a child placed on probation~~[, home incarceration,]~~ or ***parental*** supervision shall remain subject to the jurisdiction of the court until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court, except that if a person is placed on probation~~[, home incarceration, or supervision]~~ after the person reaches the age of seventeen (17) years and six (6) months, the probation~~[, home incarceration, or supervision]~~ shall be for a period not to exceed one (1) year; or

(3) Commit or recommit the child to the custody~~[or guardianship]~~ of the Department of Juvenile Justice, ***or grant guardianship to*** a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility or

juvenile holding facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice shall accept physical custody of the child, remove the child from the approved secure juvenile detention facility or juvenile holding facility, and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment. The Department of Juvenile Justice shall pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed. All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public. The commitment or placement shall be until the age of eighteen (18), subject to KRS 635.070 and to the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or

(4) If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed forty-five (45) days; or

(5) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed ninety (90) days; or

(6) Any combination of the dispositions listed above ***except that, if a court probates or suspends a commitment in conjunction with any other dispositional alternative, that fact shall be explained to the juvenile and contained in a written order***.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsection (4) or (5) of this section in accordance with the statewide detention plan and administrative regulations implementing the plan.

Section 6. KRS 635.100 is amended to read as follows:

(1) Any child committed to or in the custody of the Department of Juvenile Justice who escapes or is absent without leave from his or her placement shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(2) Any child committed to the Department of Juvenile Justice who is placed on supervised placement by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be returned to active custody of the Department of Juvenile Justice and ***shall***[~~may~~] be taken into custody by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(3) A child taken into custody may be held in a Department of Juvenile Justice facility, program, or contract facility, prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within five (5) days, exclusive of weekends and holidays, of the holding, unless the child or his representative request or agree to a longer period of time, to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (5) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(4) A child taken into custody as provided in subsection (1) of this section shall be returned to the active custody of the Department of Juvenile Justice within three (3) days, exclusive of weekends and holidays, and no administrative hearing shall be required.

(5) If the child is returned to the active custody of the Department of Juvenile Justice as provided in subsection (3) of this section an administrative hearing shall be held within ten (10) days, exclusive of weekends and holidays, of the preliminary hearing unless the child and his representative request or agree to a longer period of time. The hearing shall be held by one (1) hearing officer designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(6) The department shall have the power to administer oaths and to issue subpoenas compelling the attendance of witnesses as it may deem necessary to the case of any child before it. Disobedience of a subpoena may be punished as contempt of court, after a hearing before the committing juvenile court.

(7) Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

(8) The Department of Juvenile Justice shall promulgate administrative regulations to govern at least the following aspects of this section:

(a) Commissioner's warrant;

(b) Procedural aspects of the hearing;

(c) Burden of proof;

(d) Standard of proof; and

(e) Administrative appeal process.

Section 7. KRS 635.510 is amended to read as follows:

(1) A child, thirteen (13) years of age or older ***at the time of the commission of the offense***, shall be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2)(a), (b), (c), (d), (e), or (f).

(2) (a) A child, less than thirteen (13) years of age, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2).

(b) Any child, thirteen (13) years of age or older, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2)(g).

(3) Upon final adjudication by the juvenile court under subsection (2) of this section, the juvenile court judge shall order a juvenile sexual offender assessment to be conducted on the child by the program or by a qualified professional approved by the program which shall recommend ***whether the child be declared a sexual offender and receive sexual offender***~~[the appropriate course of]~~ treatment. Upon receipt of the findings of the assessment, the juvenile court judge shall determine whether the child shall be declared a juvenile sexual offender, and, if so, shall initiate a referral to the program for treatment.

Section 8. KRS 640.030 is amended to read as follows:

A youthful offender, who is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the Department of Juvenile Justice or by its designated representative;

(2) Except as provided in KRS 640.070, any sentence imposed upon the youthful offender shall be served in a facility or program operated or contracted by the Department of Juvenile Justice until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. The Department of Juvenile Justice shall take custody of a youthful offender, remanded into its custody, within sixty (60) days following sentencing. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge; ***or***

(b)~~[Whether the youthful offender shall be returned to the Department of Juvenile Justice to complete a treatment program, which treatment program shall not exceed a period in excess of six (6) months. At the conclusion of the treatment program or at the expiration of six (6) months, whichever first occurs, the individual shall be returned to the sentencing court for a determination under paragraph (a) or (c) of this subsection; or~~

~~(c)]~~ Whether the youthful offender shall be incarcerated in an institution operated by the Department of Corrections;

(3) If a youthful offender has attained the age of eighteen (18) prior to sentencing,~~[that individual shall be returned to the sentencing court at the end of a six (6) month period if that individual has been sentenced to a period of placement or treatment with the Department of Juvenile Justice.]~~ the court shall have the same dispositional options as currently provided in subsection (2)(a) and ***(b)***~~[(c)]~~ of this section; and

(4) KRS 197.420 to the contrary notwithstanding, a youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program by the Department of Juvenile Justice pursuant to KRS 635.500 ***and KRS 635.520*** and as mandated by KRS 439.340(11) ***and shall receive appropriate credit for such treatment if***~~[unless]~~ the youthful offender has been transferred to the Department of Corrections.

Section 9. KRS 17.495 is amended to read as follows:

No registrant, as defined in KRS 17.500, who is placed on probation, parole, or any form of supervised release, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence. ***This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in a secondary education program.***

Section 10. KRS 17.552 is amended to read as follows:

No person shall conduct comprehensive sex offender presentence evaluations or treatment without first obtaining approval from the Sex Offender Risk Assessment Advisory Board, except that the Department of Corrections sex offender treatment program shall be regulated under KRS 197.400 to 197.440 and excluded from the application of this statute ***and the Department of Juvenile Justice sex offender treatment program shall be regulated under KRS 635.500 and 635.520 and excluded from the application of this statute***.

Section 11. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of a sex crime, as defined in KRS 17.500, prior to determining the sentence ***or prior to final sentencing for youthful offenders***, the court shall order a comprehensive sex offender presentence evaluation of the defendant to be conducted by an approved provider, as defined in KRS 17.550***,***[~~ or~~] the Department of Corrections***, or the Department of Juvenile Justice if the defendant is a youthful offender***. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment and shall be considered by the court in determining the appropriate sentence. A copy of the comprehensive sex offender presentence evaluation shall be furnished to the court, the Commonwealth's attorney, and to counsel for the defendant. If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the comprehensive sex offender presentence evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any comprehensive sex offender presentence evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.

(5) The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.

(6) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 12. KRS 640.075 is amended to read as follows:

(1) Any other provision of KRS Chapter 640 to the contrary notwithstanding, any youthful offender ordered transferred to the Department of Corrections under KRS 640.030(2)***(b)***[~~(c)~~] may, at the discretion of the Department of Juvenile Justice, after consultation with the Department of Corrections, remain in the custody of the Department of Juvenile Justice and in a Department of Juvenile Justice facility or program, until expiration of sentence or until the youthful offender is released on parole, but in no event past the age of twenty-one (21).

(2) Any youthful offender whose custody has been retained by the Department of Juvenile Justice under subsection (1) of this section may be immediately transferred to the Department of Corrections, at such location within this state as the Department of Corrections directs, if the youthful offender causes any disruption to the program or attempts to escape.

(3) Any youthful offender who attains the age of twenty-one (21) while in the custody of the Department of Juvenile Justice shall be immediately transferred to the Department of Corrections at such location within this state as the Department of Corrections directs.

(4) Any youthful offender whose custody has been retained under subsection (1) of this section and who has not been released under other provision of law or delivered to the Department of Corrections under subsection (2) of this section, may, on one (1) occasion and after the completion of a minimum twelve (12) months additional service of sentence, petition the sentencing Circuit Court for reconsideration of probation and, except as provided in KRS 439.3401, may be considered for early parole eligibility.

Section 13. Whereas the Commonwealth must revise its current laws in order to comply with federal funding requirements, an emergency is declared to exist with regards to Sections 3, 4, and 8 of this Act, and those sections shall take effect upon passage and approval by the Governor or upon their otherwise becoming law.

The Committee Substitute to **HB 550** is as follows:

HB 550, AN ACT relating to the Department of Juvenile Justice and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a) Prevention of juvenile crime;

(b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;

(c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;

(d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(g) Conducting research and comparative experiments to find the most effective means of:

1. Preventing delinquent behavior;

2. Identifying predelinquent youth;

3. Preventing predelinquent youth from becoming delinquent;

4. Assessing the needs of predelinquent and delinquent youth;

5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

(h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:

(a) Bidding process; and

(b) Emergency acquisition process.

(4) The Department of Juvenile Justice shall develop programs to:

(a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;

(b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and

(c) Provide mental health services to committed youth according to their needs.

(5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for Families and Children, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion,

and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.

(b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:

1. Three (3) current or former participants in the juvenile justice system;
2. An employee of the Department of Juvenile Justice;
3. An employee of the Cabinet for Families and Children;
4. A person operating alternative detention programs;
5. An employee of the Department of Education;
6. An employee of the Department of Public Advocacy;
7. An employee of the Administrative Office of the Courts;
8. A representative from a private nonprofit organization with an interest in youth services;
9. A representative from a local juvenile delinquency prevention council;
10. A member of the Circuit Judges Association;
11. A member of the District Judges Association;
12. A member of the County Attorneys Association;
13. A member of the County Judge/Executives Association;
14. A person from the business community not associated with any other group listed in this paragraph;
15. A parent not associated with any other group listed in this paragraph;
16. A youth advocate not associated with any other group listed in this paragraph;
17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
18. A local school district special education administrator not associated with any other group listed in this paragraph;
19. A peace officer not associated with any other group listed in this paragraph; and
20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.

(c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.

(6) The Department of Juvenile Justice shall, in cooperation with the Department of Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall promulgate an administrative regulation to govern at least the following aspects of this subsection:

(a) Facility access;

(b) Scheduling; and

(c) Access to residents' records.

(7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

Section 2. KRS 610.220 is amended to read as follows:

(1) Except as otherwise provided by statute, if an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, youth alternative

center, a nonsecure facility, or, as necessary, in a hospital or clinic for the following purposes:

(a) Identification and booking;

(b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;

(c) Photographing;

(d) Fingerprinting;

(e) Physical examinations, including examinations for evidence;

(f) Evidence collection, including scientific tests;

(g) Records checks;

(h) Determining whether the child is subject to trial as an adult; and

(i) Other inquiries of a preliminary nature.

(2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody for up to an additional ten (10) hours at a facility of the type listed in subsection (1) of this section except for an intermittent holding facility for the period of retention.

(3) Any child held in custody pursuant to this section shall be sight and sound separated from any adult prisoners held in secure custody at the same location***, and shall not be handcuffed to or otherwise securely attached to any stationary object***.

Section 3. KRS 610.265 is amended to read as follows:

(1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays pending a detention hearing.

(2) (a) Within the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

(b) If the court orders a child detained further after the detention hearing, that detention shall be served as follows:

1. If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.

2. If it is alleged that the child is a status offender, detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.

3. If a status offender is charged with violating a valid court order, and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph.

4. Prior to ordering a status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:

a. Affirm that the requirements for a valid court order were met at the time the original order finding the child to be a status offender was issued;

b. Make a determination during the detention hearing that there is probable cause to believe that the child violated the valid court order; and

c. Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receive an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receive and review a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a status offender.

5. If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.

6. If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.

(c) ***If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in Section 4 of this Act.***

(d) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 4. KRS 610.290 is amended to read as follows:

(1) Unless a hearing is held within the time frame established by KRS 610.265, and the necessity for detention properly established, the child shall be released to the custody of his parents, person exercising custodial control or supervision or other responsible adult pending further disposition of the case.

(2) The~~[A]~~ child shall have a right to counsel at his detention hearing determining his right to freedom pending the disposition of his case, and his parents, person exercising custodial control or supervision or other responsible adult shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the Circuit Court.

(3)~~[(2)]~~ Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, person exercising custodial control or supervision or other responsible adult shall be given written notice of the time and place of the adjudicatory hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 5. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency; or

(2) Place the child~~[on probation, home incarceration, or]~~ under ***parental*** supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine***, or place the child on probation under conditions that the court shall determine and sanctions that may be imposed if the conditions are violated***. A child placed on probation~~[, home incarceration, or supervision]~~ shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice~~[and, unless the court's order contains a specific sanction to be imposed in the event that a violation of probation occurs, a violation of probation may result in commitment]~~. Except as provided in KRS 635.083, a child placed on probation~~[, home incarceration,]~~ or ***parental*** supervision shall remain subject to the jurisdiction of the court until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court, except that if a person is placed on probation~~[, home incarceration, or supervision]~~ after the person reaches the age of seventeen (17) years and six (6) months, the probation~~[, home incarceration, or supervision]~~ shall be for a period not to exceed one (1) year; or

(3) Commit or recommit the child to the custody~~[or guardianship]~~ of the Department of Juvenile Justice, ***or grant guardianship to*** a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility or juvenile holding facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice shall accept physical custody of the

child, remove the child from the approved secure juvenile detention facility or juvenile holding facility, and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment. The Department of Juvenile Justice shall pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed. All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public. The commitment or placement shall be until the age of eighteen (18), subject to KRS 635.070 and to the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or

(4) If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed forty-five (45) days; or

(5) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility, juvenile holding facility, or approved detention program as authorized by the Department of Juvenile Justice in accordance with KRS Chapter 15A for a period of time not to exceed ninety (90) days; or

(6) Any combination of the dispositions listed above ***except that, if a court probates or suspends a commitment in conjunction with any other dispositional alternative, that fact shall be explained to the juvenile and contained in a written order***.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsection (4) or (5) of this section in accordance with the statewide detention plan and administrative regulations implementing the plan.

Section 6. KRS 635.100 is amended to read as follows:

(1) Any child committed to or in the custody of the Department of Juvenile Justice who escapes or is absent without leave from his or her placement shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(2) Any child committed to the Department of Juvenile Justice who is placed on supervised placement by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be returned to active custody of the Department of Juvenile Justice and ***shall***[~~may~~] be taken into custody by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(3) A child taken into custody may be held in a Department of Juvenile Justice facility, program, or contract facility, prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within five (5) days, exclusive of weekends and holidays, of the holding, unless the child or his representative request or agree to a longer period of time, to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (5) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(4) A child taken into custody as provided in subsection (1) of this section shall be returned to the active custody of the Department of Juvenile Justice within three (3) days, exclusive of weekends and holidays, and no administrative hearing shall be required.

(5) If the child is returned to the active custody of the Department of Juvenile Justice as provided in subsection (3) of this section an administrative hearing shall be held within ten (10) days, exclusive of weekends and holidays, of the preliminary hearing unless the child and his representative request or agree to a longer period of time. The hearing shall be held by one (1) hearing officer designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(6) The department shall have the power to administer oaths and to issue subpoenas compelling the attendance of witnesses as it may deem necessary to the case of any child before it. Disobedience of a subpoena may be punished as contempt of court, after a hearing before the committing juvenile court.

(7) Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

(8) The Department of Juvenile Justice shall promulgate administrative regulations to govern at least the following aspects of this section:

(a) Commissioner's warrant;

(b) Procedural aspects of the hearing;

(c) Burden of proof;

(d) Standard of proof; and

(e) Administrative appeal process.

Section 7. KRS 635.510 is amended to read as follows:

(1) A child, thirteen (13) years of age or older ***at the time of the commission of the offense***, shall be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2)(a), (b), (c), (d), (e), or (f).

(2) (a) A child, less than thirteen (13) years of age, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2).

(b) Any child, thirteen (13) years of age or older, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in KRS 635.505(2)(g).

(3) Upon final adjudication by the juvenile court under subsection (2) of this section, the juvenile court judge shall order a juvenile sexual offender assessment to be conducted on the child by the program or by a qualified professional approved by the program which shall recommend ***whether the child be declared a sexual offender and receive sexual offender***[~~the appropriate course of~~] treatment. Upon receipt of the findings of the assessment, the juvenile court judge shall determine whether the child shall be declared a juvenile sexual offender, and, if so, shall initiate a referral to the program for treatment.

Section 8. KRS 640.030 is amended to read as follows:

A youthful offender, who is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the Department of Juvenile Justice or by its designated representative;

(2) Except as provided in KRS 640.070, any sentence imposed upon the youthful offender shall be served in a facility or program operated or contracted by the Department of Juvenile Justice until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. The Department of Juvenile Justice shall take custody of a youthful offender, remanded into its custody, within sixty (60) days following sentencing. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge; ***or***

(b)[~~Whether the youthful offender shall be returned to the Department of Juvenile Justice to complete a treatment program, which treatment program shall not exceed a period in excess of six (6) months. At the conclusion of the treatment program or at the expiration of six (6) months, whichever first occurs, the individual shall be returned to the sentencing court for a determination under paragraph (a) or (c) of this subsection; or~~

~~(c)~~] Whether the youthful offender shall be incarcerated in an institution operated by the Department of Corrections;

(3) If a youthful offender has attained the age of eighteen (18) prior to sentencing,[~~ that individual shall be returned to the sentencing court at the end of a six (6) month period if that individual has been sentenced to a period of placement or treatment with the Department of Juvenile Justice.~~] the court shall have the same dispositional options as currently provided in subsection (2)(a) and ***(b)***[~~(c)~~] of this section; and

(4) KRS 197.420 to the contrary notwithstanding, a youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program by the Department of Juvenile Justice pursuant to KRS 635.500 ***and KRS 635.520*** and as mandated by KRS 439.340(11) ***and shall receive appropriate credit for such treatment if***[~~unless~~] the youthful offender has been transferred to the Department of Corrections.

Section 9. KRS 17.495 is amended to read as follows:

No registrant, as defined in KRS 17.500, who is placed on probation, parole, or any form of supervised release, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence. ***This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in a secondary education program.***

Section 10. KRS 17.552 is amended to read as follows:

No person shall conduct comprehensive sex offender presentence evaluations or treatment without first obtaining approval from the Sex Offender Risk Assessment Advisory Board, except that the Department of Corrections sex offender treatment program shall be regulated under KRS 197.400 to 197.440 and excluded from the application of this statute ***and the Department of Juvenile Justice sex offender treatment program shall be regulated under KRS 635.500 and 635.520 and excluded from the application of this statute***.

Section 11. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence

investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of a sex crime, as defined in KRS 17.500, prior to determining the sentence ***or prior to final sentencing for youthful offenders***, the court shall order a comprehensive sex offender presentence evaluation of the defendant to be conducted by an approved provider, as defined in KRS 17.550***,***[~~ or~~] the Department of Corrections***, or the Department of Juvenile Justice if the defendant is a youthful offender***. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment and shall be considered by the court in determining the appropriate sentence. A copy of the comprehensive sex offender presentence evaluation shall be furnished to the court, the Commonwealth's attorney, and to counsel for the defendant. If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the comprehensive sex offender presentence evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any comprehensive sex offender presentence evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.

(5) The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.

(6) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 12. KRS 640.075 is amended to read as follows:

(1) Any other provision of KRS Chapter 640 to the contrary notwithstanding, any youthful offender ordered transferred to the Department of Corrections under KRS 640.030(2)***(b)***[~~(c)~~] may, at the discretion of the Department of Juvenile Justice, after consultation with the Department of Corrections, remain in the custody of the Department of Juvenile Justice and in a Department of Juvenile Justice facility or program, until expiration of sentence or until the youthful offender is released on parole, but in no event past the age of twenty-one (21).

(2) Any youthful offender whose custody has been retained by the Department of Juvenile Justice under subsection (1) of this section may be immediately transferred to the Department of Corrections, at such location within this state as the Department of Corrections directs, if the youthful offender causes any disruption to the program or attempts to escape.

(3) Any youthful offender who attains the age of twenty-one (21) while in the custody of the Department of Juvenile Justice shall be immediately transferred to the Department of Corrections at such location within this state as the Department of Corrections directs.

(4) Any youthful offender whose custody has been retained under subsection (1) of this section and who has not been released under other provision of law or delivered to the Department of Corrections under subsection (2) of this section, may, on one (1) occasion and after the completion of a minimum twelve (12) months additional service of sentence, petition the sentencing Circuit Court for reconsideration of probation and, except as provided in KRS 439.3401, may be considered for early parole eligibility.

Section 13. Whereas the Commonwealth must revise its current laws in order to comply with federal funding requirements, an emergency is declared to exist with regards to Sections 2, 3, 4, and 8 of this Act, and those sections shall take effect upon passage and approval by the Governor or upon their otherwise becoming law.

HB 563, AN ACT relating to detection of deception examiners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 329.030 is amended to read as follows:

(1) No person shall administer a detection of deception examination, as set forth in KRS 329.010, or any imitation thereof, without first securing a trainee's license or an examiner's license. Each application for a trainee's license shall be made to

the cabinet within ten (10) days of the commencement of the trainee's internship, and said application shall contain such information as may be reasonably required by the cabinet. Each application for a trainee license or a renewal or extension shall be accompanied by a fee of twenty-five dollars ($25), which is nonrefundable. Each application for an examiner's license shall be made to the cabinet in writing on forms provided by the cabinet and shall contain such information as may be required by the cabinet to determine the eligibility of the applicant. Each application for an examiner's license shall be accompanied by a fee of fifty dollars ($50), which is nonrefundable.

(2) Each applicant for an examiner's license shall submit his fingerprints to the cabinet***. The cabinet is authorized to exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of the applicant. Each applicant shall also submit***[~~together with~~] a sworn affidavit that said applicant:

(a) Is a citizen of the United States;

(b) Is at least eighteen (18) years of age;

(c) Has administered detection of deception examinations for a period of at least one (1) year using the instrumentation prescribed in KRS 329.020;

(d) Has completed a course of formal training in detection of deception in an institution accepted by the cabinet;

(e) Has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the Armed Services of the United States, or any branch of the state, city or federal government; and

(f) Any other information required by the cabinet to determine the examiner's competency to obtain a license to practice in this state.

(3) Upon receipt of an application for a trainee's license or for an examiner's license, the secretary shall investigate each application, and no license will be issued until said investigation is complete.

(4) The cabinet shall establish such reasonable rules and regulations for the trainee during his internship as may be reasonably necessary for the purpose of insuring that the trainee meets adequate professional standards established by the cabinet.

(5) The cabinet may require applicants for an examiner's license to pass an examination which shall be confined to such knowledge, practical ability and skill as is essential for performing the duties of a detection of deception examiner. The cabinet shall make rules and regulations for conducting examinations and shall define the standards to be acquired to constitute passing the examination.

(6) The cabinet shall establish such reasonable rules and regulations for the examiner during his period of licensure as may be reasonably necessary for the purpose of insuring that the examiner maintain adequate professional standards established by the cabinet.

SB 14, AN ACT relating to drug control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy ***that has obtained a license, permit, or other authorization to operate from***[~~licensed by~~] the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or ***any other dispenser*** who ***has obtained a license, permit, or other authorization to operate from***[~~is licensed by~~] the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

(a) A drug administered directly to a patient; or

(b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser. ***The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.***

(6) The Cabinet for Health Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) A state, federal, or municipal officer whose duty is to enforce the laws of this ***Commonwealth, of another*** state***,*** or ***of*** the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

(e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;[~~ or~~]

(f) ***In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:***

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;

2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or

3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or

(g) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.

(7) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction***, except that:***

(a) A law enforcement officer who is authorized to receive data or a report may share that information with other law enforcement officers authorized to receive data or a report, if the law enforcement officers are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in paragraph (a) of subsection (6) of this section, or with a law enforcement officer designated in paragraph (b) of subsection (6) of this section.

(8)[~~(7)~~] The Cabinet for Health Services, all law enforcement officers, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(9)[~~(8)~~] The data and any report obtained therefrom shall not be a public record.

(10)[~~(9)~~] Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(11)[~~(10)~~] Knowing disclosure of transmitted data to a person not authorized by subsection (6) ***or (7)*** of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(12)[~~(11)~~] The Governor's Office for Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(13)[~~(12)~~] Provisions in[~~ subsections (1) to (10) of~~] this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection ***(12)***[~~(11)~~] of this section.

(14) The Cabinet for Health Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(15) (a) The Cabinet for Health Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 2. KRS 218A.240 is amended to read as follows:

(1) All police officers and deputy sheriffs directly employed full-time by state, county, city, or urban-county governments, the State Police, the Cabinet for Health Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence.

(3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health Services.

(4) Designated agents of the Cabinet for Health Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

(a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

(b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

(c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his costs, including a reasonable attorney's fee.

(d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his percentage of the funds shall go to the agency initiating the forfeiture action.

(6) The Cabinet for Health Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.

(7) (a) The Cabinet for Health Services shall use the data compiled in the electronic system created in Section 1 of this Act for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.

(b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of

Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.

(c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.

(d) Law enforcement officers authorized to receive data under Section 1 of this Act may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to subsection (4) of Section 1 of this Act, except that the report shall not identify an individual prescriber, dispenser, or patient.

(e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Cabinet for Health Services may enter into reciprocal agreements with any other state or states of the United States to share prescription drug monitoring information if the other state's prescription drug monitoring program is compatible with the program in Kentucky. If the secretary elects to evaluate the prescription drug monitoring program of another state as authorized by this section, priority shall be given to a state that is contiguous with the borders of the Commonwealth.

(2) In determining compatibility, the secretary shall consider:

(a) The essential purposes of the program and the success of the program in fulfilling those purposes;

(b) The safeguards for privacy of patient records and its success in protecting patient privacy;

(c) The persons authorized to view the data collected by the program;

(d) The schedules of controlled substances monitored;

(e) The data required to be submitted on each prescription;

(f) Any implementation criteria deemed essential for a thorough comparison; and

(g) The costs and benefits to the Commonwealth in mutually sharing particular information available in the Commonwealth's database with the program under consideration.

(3) The secretary shall review any agreement on an annual basis to determine its continued compatibility with the Kentucky prescription drug monitoring program.

(4) The secretary shall prepare an annual report to the Governor and the Legislative Research Commission that summarizes any agreement under this section and that analyzes the effectiveness of that agreement in monitoring the dispensing of controlled substances in the Commonwealth.

(5) Any agreement between the cabinet and another state shall prohibit the sharing of information about a Kentucky resident, practitioner, pharmacist, or other prescriber for any purpose not otherwise authorized by this section or Section 1 of this Act.

Section 4. KRS 315.0351 is amended to read as follows:

(1) Every pharmacy located outside this Commonwealth which, other than on an incidental basis, does business within this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035.

(2) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist.

(3) Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily-authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the *jurisdiction*[~~state~~] in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the *jurisdiction*[~~state~~] in which it is located. Thereafter, the out-of-state pharmacy granted a permit shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the *jurisdiction*[~~state~~] in which it is located.

(4) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed.

(5) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the

out-of-state pharmacy.

(6) Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth.

(7) Each out-of-state pharmacy shall have a pharmacist in charge who shall be responsible for compliance by the pharmacy with the provisions of this section.

Motions, Petitions, and Communications (Continued)

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HCR 112**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HJR 142** and **HR 188**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 320**, by Representative Nunn:

HB 320, On page 2, by deleting lines 18 through 25, in their entirety, and renumbering subsequent sections accordingly; and

On page 16, line 5, after "***45A.725***", by deleting "***, except that agreements***"; and

On page 16, lines 6 through 11, by deleting lines 6 through 11 in their entirety; and

On page 16, line 12, by deleting all language before the period.

Floor Amendment No. 1 to **HB 508**, by Representative Westrom:

HB 508, On page 5, after line 27, by adding:

"Section 5. KRS 304.10-050 is amended to read as follows:

At the time of effecting any such surplus lines insurance, the broker shall execute an affidavit in form prescribed or accepted by the commissioner setting forth facts from which it can be determined whether such insurance was eligible for export under KRS 304.10-040. The broker shall file this affidavit with the commissioner ***in the manner and form as prescribed by the commissioner through administrative regulation***~~[within sixty (60) days after the insurance was so effected, except where an alien insurer was used, in which case the broker shall file such affidavit within ninety (90) days]~~.".

Floor Amendment No. 2 to the Committee Substitute to **HB 262**, by Representative Westrom:

HB 262, On page 1, line 4, by deleting "***874,000***" and inserting the following in lieu thereof: "***eight hundred seventy-four thousand (874,000)***"; and

On page 1, line 4, by deleting "***, including blindness or***", and inserting the following in lieu thereof: "***and, of this number, approximately three hundred thousand (300,000) are blind or visually impaired or have***"; and

On page 1, line 5, after "***impairments***" by deleting "***,***"; and

On page 1, lines 17 through 24, by deleting all text within those lines and inserting the following in lieu thereof:

"***(5) This limitation can be overcome through the use of high-speed computer, radio, and telecommunications technology, combined with customized software, providing a practical cost-effective way to convert electronic text-based information into human or synthetic speech suitable for statewide distribution and accessible through radio, a touch-tone telephone, and modern telecommunications technology;***

(6) Radio, telecommunications, and voice-based information systems are cost-efficient information delivery systems for this state;"; and

On page 2, line 14, after "***including***", by inserting:

"***but not limited to magazines, newsletters, schedules, announcements, and***"; and

On page 2, line 15, after "***computers***", by inserting "***, radios,***"; and

On page 2, lines 22 through 27, by deleting all text within those lines and inserting the following in lieu thereof:

"*(1) The Accessible Electronic Information Service Program is created and shall be provided by a nonprofit entity or entities selected by the Department for the Blind through a state bidding process. The Department for the Blind shall administer funding to the nonprofit entity or entities for program services. The program shall include:*

(a) Intrastate access for eligible persons to read audio editions of newspapers, magazines, newsletters, schedules, announcements, and other information using a touch-tone telephone, radio, or other technologies that produce audio editions by use of computer; and"; and

On page 3, line 1, after "*Internet*", by inserting: "*, or by mail, telephone, or any other method providing consumer access*"; and

On page 3, lines 9 and 10, by deleting "*priority shall be given to an entity*" and inserting the following in lieu thereof: "*the Department of the Blind shall consider an entity or entities*"; and

On page 3, line 13, after "*entity*", by inserting "*or entities*"; and

On page 3, line 13, by deleting "*that administers*" and inserting "*participating in*"; and

On page 3, line 19, after "*;*", by deleting "*and*"; and

On page 3, line 20, by deleting "*.*", and inserting "*; and*" in lieu thereof; and

On page 3, after line 20, by inserting the following:

"*(e) The types and number of program services for the blind or visually impaired that are currently being offered in Kentucky and are incorporated in the program.*"; and

On page 3, lines 21 through 25, by deleting all text within those lines and inserting the following in lieu thereof:

"*(5) The Department for the Blind shall review new technologies and current service programs in Kentucky for the blind and visually impaired that are available to expand audio communication if the department determines that these new technologies will expand access to consumers in a cost-efficient manner. The department may implement recommendations from the Department for the Blind State Rehabilitation Council for improving the program.*

(6) The Department for the Blind shall prepare an annual report by November 1 of each year that includes the complete report received by each participating nonprofit entity or entities, and any other recommendations of the department for the improvement of the program. This report shall be submitted to the Governor and the Legislative Research Commission."; and

On page 4, lines 5 and 6, by deleting "*entity administering the program*" and inserting the following in lieu thereof: "*Department for the Blind and the entity or entities participating in the program*"; and

On page 4, line 13, by deleting "*entity administering the program*" and inserting the following in lieu thereof: "*Department for the Blind*".

Floor Amendment No. 1 to **HB 493**, by Representative P. Clark:

HB 493, On page 2, after line 13, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS 248.701 TO 248.727 IS CREATED TO READ AS FOLLOWS:

Any tobacco settlement funds from the master settlement agreement that are distributed to Barren County shall be used for the purpose of establishing smoking lounges in the Capitol and Capitol Annex, pursuant to Section 1 of this Act.".

Floor Amendment No. 1 to **HB 588**, by Representative Bather:

HB 588, On page 2, line 2, by deleting "*fifteen (15)*" and inserting in lieu thereof "*seventeen (17)*"; and

On page 2, line 10, after the semicolon by deleting "*and*"; and

On page 2, line 11, after the semicolon by inserting "*and*"; and

On page 2, between lines 11 and 12, by inserting "*Transportation.*"; and

On page 2, line 17, by deleting the period and inserting in lieu thereof "*; and*"; and

On page 2, between lines 17 and 18, by inserting "*(e) One (1) member representing government, to be appointed by the Governor and selected from government at large.*"

On page 2, line 21, by deleting "*two (2)*" and inserting in lieu thereof "*three (3)*".

Floor Amendment No. 1 to **HB 570**, by Representative Jenkins:

HB 570, On page 2, after line 10, insert the following:

"*(4) When a labor organization has been designated in accordance with the provisions of this section as the exclusive representative of police officers in an appropriate unit, the mayor of a consolidated local government or his designated authorized representative shall represent the consolidated local government in collective bargaining with the labor organization.*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 170, Representative Montell

HB 171, Representative Montell

HB 475, Representatives Cherry, Bather, Nunn, Palumbo, Haydon, Callahan, Buckingham, Mobley, Yonts, and Edmonds

HB 540, Representative Palumbo

HB 639, Representative Crimm

HB 650, Representatives Bruce, Farmer, Higdon, Crall, Denham, and Upchurch

HB 660, Representative Montell

HCR 112, Representatives R. Adams, Gray, Barrows, Buckingham, S. Lee, Vincent, Baugh, and T. Thompson

HR 213, Representative Siler

Announcements

The following meeting was announced:

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations: Thursday, March 4, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, March 4, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, March 4, 2004, was adopted by voice vote.

THURSDAY, MARCH 4, 2004

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather and Stein.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 3, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Hoover moved that the rules be suspended to grant floor privileges to former Republican members of the House. Agreed.

Representative T. Thompson moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative T. Thompson moved the adoption of the following **Legislative Citation No. 65**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to the statewide winners of the "We The People" Competition from Ohio County High School as they join together to be honored in the House Chamber during the 2004 Regular Session of the Kentucky General Assembly. A nationally acclaimed civic education program which seeks to teach young people the history and philosophy of the U.S. Constitution and the Bill of Rights, this phenomenal program offers elementary and secondary students the opportunity to learn about the institutions of American constitutional democracy and to enhance their understanding of the contemporary relevance of the Constitution and the Bill of Rights. This unique program culminates in participants gathering to simulate a congressional hearing where they may demonstrate their acquired understanding of constitutional principles and where they have the opportunity to evaluate, take, and defend positions on relevant historical and contemporary issues. Participants in the Ohio County High School program, having competed in both district and state level competitions, have now claimed the school's fourth state title in this most worthwhile event and have again earned the opportunity to travel to Washington, D.C., to represent this fine Commonwealth in the national "We the People" competition. Inasmuch as these remarkable young people have demonstrated a laudable dedication to the principles of democratic government coupled with a diligent effort to understand the intricacies of the U.S. Constitution and the Bill of Rights, the members of this august body are delighted to join Representative Tommy Thompson in applauding them on this auspicious occasion and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this fourth day of March, in the year two thousand and four.

Legislative Citation No. 65 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 200** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:20 p.m.)

Representative Pullin moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 224, by Representative Pullin: A RESOLUTION adjourning the House of Representatives in honor of the Sunshine United Methodist Church members.

Representative Pullin moved the adoption of the following **HR 224**:

HR 224, A RESOLUTION adjourning the House of Representatives in honor of the Sunshine United Methodist Church members.

WHEREAS, Greenup County is well represented by the goodwill of the Sunshine United Methodist Church members; and

WHEREAS, it is with great enthusiasm that we welcome the Sunshine United Methodist Church members of South Shore, Greenup County, Kentucky, upon the occasion of their second annual visit to our beautiful Kentucky State Capitol;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. It is with great pleasure and pride that the House of Representatives welcome the Sunshine United Methodist Church members of South Shore in Greenup County to our beautiful State Capitol upon the occasion of their second annual visit to Frankfort. We appreciate their interest in the legislative process, and look forward to many visits from them in future years.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Sunshine Methodist Church members of Greenup County.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Tanya Pullin for presentation to the Sunshine United Methodist Church members.

There being no objection, **HR 224** was adopted.

Representative De. Butler moved that the rules be suspended to act on a Resolution. Agreed.

Representative De. Butler moved the adoption of the following **HR 162**:

HR 162, A RESOLUTION designating March 6, 2004, as Louisville Water Company Day in the Commonwealth of Kentucky.

WHEREAS, Louisville Water Company was chartered by the Kentucky General Assembly on March 6, 1854; and

WHEREAS, Louisville Water Company's mission is to serve the water needs of customers through outstanding quality, service, and value; and

WHEREAS, Louisville Water Company is an industry leader in water quality research and technology, making improvements that benefit drinking water customers worldwide; and

WHEREAS, over one million Kentucky residents benefit from the work of Louisville Water Company in Jefferson, Oldham, Bullitt, Nelson, Shelby, and Spencer Counties; and

WHEREAS, Louisville Water Company cleans, on average, 130 million gallons of water daily to send to homes, school, businesses, hospitals, and parks; and

WHEREAS, Louisville Water Company has branded Louisville Pure Tap as the water of choice;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. March 6, 2004, is designated as Louisville Water Company Day, and this honorable body applauds the Louisville Water Company for delivering quality drinking water for 150 years to Louisville residents and beyond. Louisville Pure Tap not only sustains residents, it also promotes economic development and helps with the dental hygiene of Kentucky residents due to the addition of fluoride in the water.

There being no objection, **HR 162** was adopted.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and a Resolution:

Banking and Insurance: **SB 171, 181**

Education: **SJR 80**

Licensing and Occupations: **SB 148**

Natural Resources and Environment: **SB 222**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 694, SB 47, 75, 79, 132, 156**

Report of Committees

The Committee on Health and Welfare reported **HB 56**, with Committee Substitute and Committee Amendment attached thereto, **HB 67, HB 115, HB 502,** with Committee Substitute attached thereto, **HB 516**, with Committee Substitute attached thereto, **HB 529, HB 571, HB 575, HB 580**, with Committee Substitute attached thereto, **HB 587, HB 595**, with Committee Substitute attached thereto, and **HR 189** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 56, AN ACT relating to an electronic health information network.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that:

(1) In the interest of promoting administrative efficiency and quality patient care, the Commonwealth shall create a corporation to facilitate the development of a Kentucky e-Health Information Network. The first order of business of the corporation shall be to complete a study of the feasibility of developing a network using federal and private funds. The findings of the feasibility study shall be reported to the Kentucky General Assembly. The corporation shall not possess any power to implement any model or e-health project without the express consent of the Kentucky General Assembly.

(2) The federal government has encouraged the development of not-for-profit public and private partnerships to implement health information technology networks as a part of the National Health Information Infrastructure. Federal grants have been proposed to support the development of the infrastructure, but it is anticipated that most of the funding will come from private investments.

(3) The goals of the Kentucky e-Health Information Network shall be to:

- *(a) Improve patient safety;*
- *(b) Improve health care quality;*
- *(c) Enhance bioterrorism detection;*
- *(d) Empower health care consumers regarding their own personal health information;*
- *(e) Promote better understanding of health care costs; and*
- *(f) Reduce health care transactions costs;*

(4) The Kentucky e-Health Information Network shall be:

- *(a) An initiative set forth to improve the efficiency, effectiveness, and overall quality of health and health care in Kentucky;*
- *(b) A comprehensive knowledge-based network of interoperable systems of clinical, public health, and personal health information that will improve decision-making by making health information available when and where it is needed;*
- *(c) A set of technologies, standards, applications, and systems that support all facets of individual health, health care, and public health; and*
- *(d) Voluntary with the right to withdraw; and*

(5) The Kentucky e-Health Information Network shall not be a centralized database of medical records.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky e-Health Information Network Corporation is hereby created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth. The purpose of the corporation shall be to facilitate the building of the Kentucky e-Health Information Network in support of the National Health Information Infrastructure.

(2) The affairs of the corporation shall be administered by a board of directors which shall be composed of the following board members appointed by the Governor:

- *(a) President, or a designee, of the University of Kentucky;*
- *(b) President, or a designee, of the University of Louisville;*
- *(c) Chief information officer, or a designee, of the Governor's Office for Technology;*
- *(d) Commissioner, or a designee, of the Office for the New Economy;*
- *(e) Commissioner, or a designee, of the Department of Insurance;*
- *(f) Secretary, or a designee, of the Cabinet for Health Services or the commissioner, or a designee, of the Department for Medicaid Services;*
- *(g) Commissioner, or a designee, of the Department for Public Health;*
- *(h) Adjutant general, or a designee, of the Department of Military Affairs or the executive director, or a designee,*

of the Office for Security Coordination of the Department of Military Affairs;

(i) Four (4) physicians engaged in the practice of medicine in this Commonwealth, two (2) appointed from a list of four (4) physicians recommended by the Kentucky Medical Association and two (2) appointed from a list of four (4) physicians recommended by the Kentucky Public Health Association;

(j) One (1) registered nurse appointed from a list of four (4) nurses recommended by the Kentucky Nurses Association;

(k) One (1) pharmacist appointed from a list of four (4) recommended by the Kentucky Pharmacists Association;

(l) Four (4) members appointed from a list of eight (8) individuals recommended by the Kentucky Hospital Association, two (2) representing rural hospitals, and two (2) representing urban hospitals; and

(m) Four (4) members at large, with two (2) representing health insurance companies and two (2) representing large companies with at least one thousand (1,000) employees, appointed from a list of five (5) individuals recommended by the Associated Industries of Kentucky.

(3) The board shall consist of the following nonvoting ex officio members:

(a) Two (2) members of the Senate, appointed by the President of the Senate; and

(b) Two (2) members of the House of Representatives, appointed by the Speaker of the House.

(4) Members appointed under paragraphs (i) to (m) of subsection (2) of this section shall serve a term of four (4) years and may serve two (2) consecutive terms, except that of the initial members appointed, four (4) members shall be appointed for two (2) years, five (5) members shall be appointed for three (3) years, and five (5) members shall be appointed for four (4) years. Ex officio members designated in paragraphs (a) to (h) of subsection (2) of this section and in subsection (3) of this section shall serve on the board only while holding their respective titles. The board shall annually elect a chairman and a vice chairman from among its appointed members.

(5) The president of the corporation shall be appointed by majority vote of the board of directors and shall direct all administrative functions of the corporation. The president shall not be a member of the board.

(6) The board may appoint committees, whose members do not need to be members of the board, to provide recommendations to the board regarding any aspect of the development of the Kentucky e-Health Information Network or implementing electronic, administrative, clinical, public health, or personal health applications. Committees may include, but not be limited to a leadership committee, resource committee, provider committee, and health care practitioner committee.

(7) Members of the board shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the corporation in accordance with state administrative regulations relating to travel reimbursements when funds are available.

(8) The board shall hire sufficient staff to carry out its work.

(9) The board shall elect an executive board of five (5) members representing two (2) major payor organizations, two (2) provider organizations, and one (1) public health organization to handle the day-to-day operations. Ex officio members shall not serve as members of the executive board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

If funds are available, the Kentucky e-Health Information Network Corporation created in Section 2 of the Act shall:

(1) Complete a study of the feasibility of developing a Kentucky e-health Network using federal and private funds;

(2) Create a business plan to become a financially self-sustaining business entity;

(3) Facilitate the development of the Kentucky e-Health Information Network to create administrative and clinical efficiency and effectiveness and to promote quality and safety of clinical care upon approval of the Kentucky General Assembly;

(4) Apply for federal funds as these become available for the following purposes:

(a) Implementing pilot projects to develop a model electronic health information network in support of the development of a national health information infrastructure, which may include but not be limited to applications for insurance enrollment, eligibility checking, claims processing, clinical knowledge management, decision support, telehealth, disease management, public health alert systems, and homeland security, including prevention and detection of, response to, and recovery from acts of terrorism;

(b) Establishing a secure data exchange platform to provide interconnectivity for health care providers, third party payors, and other authorized users;

(c) Formulating public and private partnerships to build the infrastructure and implement health information applications; and

(d) Implementing pilot projects to test computerized health information applications, including but not limited to consumer applications, chronic care management, and public health surveillance;

(5) Provide recommendations to the Cabinet for Health Services regarding administrative regulations related to:

(a) Data standards for communication and information exchange on the Kentucky e-Health Information Network that are compatible with any standards adopted by the federal Department for Health and Human Services or any other federal agency designated to oversee a national health information infrastructure;

(b) Standards for securing the confidentiality of protected patient information that are consistent with or more stringent than the Federal Health Insurance Portability and Accountability Act of 1996;

(c) Criteria for the disbursement of funds to community partners; and

(d) Evaluation requirements for any projects funded;

(6) Oversee the administration of any funds received or disbursed to community partners for pilot projects to develop the health information infrastructure or test applications. The match rate shall be limited to an amount equal to the amount of funds that the community partner has committed to the project, except that the corporation shall comply with federal regulations if federal funds are dispersed;

(7) Evaluate the costs and benefits of the projects funded;

(8) Oversee the implementation and operation of the Kentucky e-Health Information Network and any related network developed in connection with the corporation upon approval of the Kentucky General Assembly;

(9) Contract with a system integrator to provide implementation and core operations of the Kentucky e-Health Information Network;

(10) Promote the development and coordination of services provided by the network;

(11) Promote the marketing of the network and the sale of its services;

(12) Oversee the integration and delivery of services provided by the network; and

(13) Report the progress of the development of the network and a summary of any evaluation of pilot projects to the Interim Joint Committee on Health and Welfare on an annual basis.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky e-Health Information Network fund is established in the State Treasury. The Kentucky e-Health Information Network Corporation shall be authorized to use money in the account for the purposes of operating the corporation and disbursing funds to community organizations for projects related to the development of the Kentucky e-Health Information Network or testing health applications for the network. The fund may receive federal funds, state appropriations, gifts, grants, revolving funds, and any other public or private funds.

(2) Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the president of the corporation. This fund shall be used solely for the purposes of the corporation as approved by the board of directors. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

Section 5. KRS 194A.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

(4) The secretary shall consider the recommendations of the board of the Kentucky e-Health Information Network Corporation created in Section 2 of this Act in promulgating administrative regulations to adopt:

(a) Data standards for communication and information exchange on the Kentucky e-Health Information Network that are compatible with any standards adopted by the federal Department for Health and Human Services or any other federal agency designated to oversee a national health information infrastructure;

(b) Standards for securing the confidentiality of protected patient information that are consistent or more stringent than the Federal Health Insurance Portability and Accountability Act of 1996;

(c) Criteria for the disbursement of funds to community partners participating in the Kentucky e-Health Information Network; and

(d) Evaluation requirements for any projects funded through the Kentucky e-Health Information Network.

The Committee Substitute to **HB 56** is as follows:

HB 56, AN ACT relating to an electronic health information network.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that:

(1) In the interest of promoting administrative efficiency and quality patient care, the Commonwealth shall create a board to facilitate the development of a Kentucky Health Information Network. The first order of business of the board shall be to complete a study of the feasibility of developing a network using federal and private funds. The findings of the feasibility study shall be reported to the Kentucky General Assembly. The board shall not possess any power to implement any model or health project without the express consent of the Kentucky General Assembly.

(2) The federal government has encouraged the development of not-for-profit public and private partnerships to implement health information technology networks as a part of the National Health Information Infrastructure. Federal grants have been proposed to support the development of the infrastructure, but it is anticipated that most of the funding will come from private investments.

(3) The goals of the Kentucky Health Information Network shall be to:

(a) Improve patient safety;

(b) Improve health care quality;

(c) Enhance bioterrorism detection;

(d) Empower health care consumers regarding their own personal health information;

(e) Promote better understanding of health care costs; and

(f) Reduce health care transactions costs.

(4) The Kentucky Health Information Network shall be:

(a) An initiative set forth to improve the efficiency, effectiveness, and overall quality of health and health care in Kentucky;

(b) A comprehensive knowledge-based network of interoperable systems of clinical, public health, and personal health information that will improve decision-making by making health information available when and where it is needed;

(c) A set of technologies, standards, applications, and systems that support all facets of individual health, health care, and public health; and

(d) Voluntary with the right to withdraw; and

(5) The Kentucky Health Information Network shall not be a centralized database of medical records.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Information Network Board is hereby created and attached to the Cabinet for Health Services for administrative purposes. The purpose of the board shall be to facilitate the building of the Kentucky Health Information Network in support of the National Health Information Infrastructure.

(2) The board shall be composed of the following members appointed by the Governor:

(a) President, or a designee, of the University of Kentucky;

(b) President, or a designee, of the University of Louisville;

(c) Chief information officer, or a designee, of the Governor's Office for Technology;

(d) Commissioner, or a designee, of the Office for the New Economy;

(e) Commissioner, or a designee, of the Department of Insurance;

(f) Secretary, or a designee, of the Cabinet for Health Services or the commissioner, or a designee, of the Department for Medicaid Services;

(g) Commissioner, or a designee, of the Department for Public Health;

(h) Adjutant general, or a designee, of the Department of Military Affairs or the executive director, or a designee, of the Office for Security Coordination of the Department of Military Affairs;

(i) Four (4) physicians engaged in the practice of medicine in this Commonwealth, two (2) appointed from a list of four (4) physicians recommended by the Kentucky Medical Association and two (2) appointed from a list of four

(4) physicians recommended by the Kentucky Public Health Association;

(j) One (1) registered nurse appointed from a list of four (4) nurses recommended by the Kentucky Nurses Association;

(k) One (1) pharmacist appointed from a list of four (4) recommended by the Kentucky Pharmacists Association;

(l) Four (4) members appointed from a list of eight (8) individuals recommended by the Kentucky Hospital Association, two (2) representing rural hospitals, and two (2) representing urban hospitals; and

(m) Four (4) members at large, with two (2) representing health insurance companies and two (2) representing large companies with at least one thousand (1,000) employees, appointed from a list of five (5) individuals recommended by the Associated Industries of Kentucky.

(3) The board shall consist of the following nonvoting ex officio members:

(a) Two (2) members of the Senate, appointed by the President of the Senate; and

(b) Two (2) members of the House of Representatives, appointed by the Speaker of the House.

(4) Members appointed under paragraphs (i) to (m) of subsection (2) of this section shall serve a term of four (4) years and may serve two (2) consecutive terms, except that of the initial members appointed, four (4) members shall be appointed for two (2) years, five (5) members shall be appointed for three (3) years, and five (5) members shall be appointed for four (4) years. Ex officio members designated in paragraphs (a) to (h) of subsection (2) of this section and in subsection (3) of this section shall serve on the board only while holding their respective titles. The board shall annually elect a chairman and a vice chairman from among its appointed members.

(5) The chairman of the board shall be appointed by majority vote of the board.

(6) The board may appoint committees, whose members do not need to be members of the board, to provide recommendations to the board regarding any aspect of the development of the Kentucky Health Information Network or implementing electronic, administrative, clinical, public health, or personal health applications. Committees may include, but not be limited to a leadership committee, resource committee, provider committee, and health care practitioner committee.

(7) Members of the board shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements when funds are available.

(8) The board shall hire sufficient staff to carry out its work.

(9) The board shall elect an executive board of five (5) members representing two (2) major payor organizations, two (2) provider organizations, and one (1) public health organization to handle the day-to-day operations. Ex officio members shall not serve as members of the executive board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

If funds are available, the Kentucky Health Information Network Board created in Section 2 of the Act shall:

(1) Complete a study of the feasibility of developing a Kentucky health network using federal and private funds;

(2) Create a business plan to become a financially self-sustaining business entity;

(3) Facilitate the development of the Kentucky Health Information Network to create administrative and clinical efficiency and effectiveness and to promote quality and safety of clinical care upon approval of the Kentucky General Assembly;

(4) Apply for federal funds as these become available for the following purposes:

(a) Implementing pilot projects to develop a model health information network in support of the development of a national health information infrastructure, which may include but not be limited to applications for insurance enrollment, eligibility checking, claims processing, clinical knowledge management, decision support, telehealth, disease management, public health alert systems, and homeland security, including prevention and detection of, response to, and recovery from acts of terrorism;

(b) Establishing a secure data exchange platform to provide interconnectivity for health care providers, third party payors, and other authorized users;

(c) Formulating public and private partnerships to build the infrastructure and implement health information applications; and

(d) Implementing pilot projects to test computerized health information applications, including but not limited to consumer applications, chronic care management, and public health surveillance;

(5) Provide recommendations to the Cabinet for Health Services regarding administrative regulations related to:

(a) Data standards for communication and information exchange on the Kentucky Health Information Network that are compatible with any standards adopted by the federal Department for Health and Human Services or any other federal agency designated to oversee a national health information infrastructure;

(b) Standards for securing the confidentiality of protected patient information that are consistent with or more stringent than the Federal Health Insurance Portability and Accountability Act of 1996;

(c) Criteria for the disbursement of funds to community partners; and

(d) Evaluation requirements for any projects funded;

(6) Oversee the administration of any funds received or disbursed to community partners for pilot projects to develop the health information infrastructure or test applications. The match rate shall be limited to an amount equal to the amount of funds that the community partner has committed to the project, except that the board shall comply with federal regulations if federal funds are disbursed;

(7) Evaluate the costs and benefits of the projects funded;

(8) Oversee the implementation and operation of the Kentucky Health Information Network and any related network developed in connection with the board upon approval of the Kentucky General Assembly;

(9) Contract with a system integrator to provide implementation and core operations of the Kentucky Health Information Network;

(10) Promote the development and coordination of services provided by the network;

(11) Promote the marketing of the network and the sale of its services;

(12) Oversee the integration and delivery of services provided by the network; and

(13) Report the progress of the development of the network and a summary of any evaluation of pilot projects to the Interim Joint Committee on Health and Welfare on an annual basis.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Information Network fund is established in the State Treasury. The Kentucky Health Information Network Board shall be authorized to use money in the account for the purposes of operating the board and disbursing funds to community organizations for projects related to the development of the Kentucky Health Information Network or testing health applications for the network. The fund may receive federal funds, state appropriations, gifts, grants, revolving funds, and any other public or private funds.

(2) Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the board. This fund shall be used solely for the purposes of the board as approved by the board. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

Section 5. KRS 194A.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

(4) The secretary shall consider the recommendations of the Kentucky Health Information Network Board created in Section 2 of this Act in promulgating administrative regulations to adopt:

(a) Data standards for communication and information exchange on the Kentucky Health Information Network that are compatible with any standards adopted by the federal Department for Health and Human Services or any other federal agency designated to oversee a national health information infrastructure;

(b) Standards for securing the confidentiality of protected patient information that are consistent or more stringent than the Federal Health Insurance Portability and Accountability Act of 1996;

(c) Criteria for the disbursement of funds to community partners participating in the Kentucky Health Information Network; and

(d) Evaluation requirements for any projects funded through the Kentucky Health Information Network.

Section 6. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies;

and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. These opportunities shall include, but not be limited to, ***the implementation of transactions and activities associated with the Kentucky Health Information Network created in Section 3 of this Act and*** the provision of telehealth by licensed health-care providers as provided in KRS Chapters 205, 211, 304.17A, 310, 311, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 334A, and 335.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown. ***The Kentucky Health Information Network Board may use the information highway to implement the network, but shall not be limited to its use for communication services.***

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

(6) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which any entity that has been approved for economic development incentives under programs approved and administered by the Kentucky Economic Development Finance Authority may have access and use on the same terms as agencies of the Commonwealth of Kentucky.

(7) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which nonprofit organizations whose exclusive purpose is the delivery of services related to education, economic development, or cultural arts and humanities, may have access and use on the same terms as agencies of the Commonwealth of Kentucky. For the purposes of this section, "nonprofit organizations" means those organizations which have been granted tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code or those existing education based entities whose purpose is the delivery of services to state school systems, their employees, or their governing organizations and which have been granted tax-exempt status under Section 501(c)(6) of the United States Internal Revenue Code.

The Committee Amendment No. 1 Title to **HB 56** is as follows:

HB 56, Amend the title to read "AN ACT relating to a health information network.".

HB 67, AN ACT relating to hospitalization of a disabled or incapacitated person.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.631 is amended to read as follows:

(1) If an adult patient ***whose physician has determined that he or she***[~~, who~~] does not have decisional capacity[~~,~~] has not executed an advance directive***,*** or to the extent the advance directive does not address a decision that must be made, any one (1) of the following responsible parties, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act, shall be authorized to make health care decisions on behalf of the patient:

  (a) The judicially-appointed guardian of the patient, if the guardian has been appointed and if medical decisions are within the scope of the guardianship;

  (b) ***The attorney-in-fact named in a durable power of attorney, if the durable power of attorney specifically includes authority for health care decisions;***

  (c) The spouse of the patient;

  (d)[~~(c)~~]An adult child of the patient, or if the patient has more than one (1) child, the majority of the adult children who are reasonably available for consultation;

  (e)[~~(d)~~]The parents of the patient;

(f)[~~(e)~~] The nearest living relative of the patient, or if more than one (1) relative of the same relation is reasonably available for consultation, a majority of the nearest living relatives.

(2) In any case in which a health care decision is made under this section, the decision shall be noted in writing in the patient's medical records.

(3) An individual authorized to consent for another under this section shall act in good faith, in accordance with any advance directive executed by the individual who lacks decisional capacity, and in the best interest of the individual who does not have decisional capacity.

(4) ***In any case in which a health care decision is made under this section, hospitalization for psychiatric treatment at a general hospital shall not exceed fourteen (14) consecutive days unless a court order is obtained under KRS Chapter 202A or 202B. For the purposes of this section, a general hospital is one that is not owned or operated by the Commonwealth of Kentucky.***

(5) An individual authorized to make a health care decision under this section may authorize the withdrawal or withholding of artificially-provided nutrition and hydration only in the circumstances as set forth in KRS 311.629(3).

HB 115, AN ACT relating to telehealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Chiropractor" means a person authorized to practice chiropractic under KRS Chapter 312;

(2) "Council" means the Advisory Council for Medical Assistance;

(3) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(4) "Health professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky;

(5) "Medical care" as used in this chapter means essential medical, surgical, chiropractic, dental, optometric, podiatric, telehealth ***consultation***, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(6) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(7) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(8) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(9) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health services or his designee;

(10) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(11) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(12) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(13) "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(14) "Public assistance recipient" means a person who has been certified by the Department for Community Based Services of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(15) "Telehealth consultation" means a medical or health consultation, for purposes of ***prevention, early detection of disease, health promotion,*** patient diagnosis***,***[~~ or~~] treatment, ***follow-up, or management of a chronic disease*** that requires the use of advanced telecommunications technology, including, but not limited to:

(a) Compressed digital interactive video, audio, or data transmission;

(b) Clinical data transmission via computer imaging for teleradiology***, teledermatology,*** or telepathology;~~[and]~~

(c) ***Asynchronous transmission of clinical data, including but not limited to store and forward; and***

(d) Other technology that facilitates access to health care services or medical specialty expertise; and

(16) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, Subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and

(17) "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient.

Section 2. KRS 205.559 is amended to read as follows:

(1) The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in KRS 11.550(3)(b).

(2) (a) The cabinet shall establish reimbursement rates for telehealth consultations ***that are transmitted and evaluated in a timely manner***. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur ***or because the consultation was not interactive or synchronous***.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.

(6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:

1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;

2. The quality of care as a result of telehealth consultations rendered under this section; and

3. Any other issues deemed relevant by the cabinet.

(b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.

(7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

Section 3. KRS 304.17A-138 is amended to read as follows:

(1) (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation ***or because the consultation is not interactive or synchronous*** if the consultation is provided through the telehealth network established under KRS 11.550 ***and transmitted and evaluated in a timely manner***. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.

(3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.

(4) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

Section 4. KRS 11.550 is amended to read as follows:

(1) The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This nine (9) member board shall consist of the:

(a) ***Executive Vice President of Health Affairs***[~~Chancellor~~], or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) Chief information officer, or a designee, of the Governor's Office for Technology; and

(e) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

HB 502, AN ACT relating to Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall work with units of local government and any other interested entities to maximize state resources available to support the state Medicaid program.

(2) The cabinet shall receive and evaluate any proposal from a unit of local government or any other entity to utilize intergovernmental transfers, grants, taxes, donations or other locally available resources to provide the state match portion of the state Medicaid program. If a proposal meets the requirements established under state and federal law, the cabinet shall submit the proposal to the federal Department of Health and Human Services for consideration.

(3) To the extent permitted by state and federal law, the cabinet shall work with units of local government and any other interested entities to develop financing arrangements that will establish an enhanced Medicaid payment for specifically designated health care providers and services including hospitals, nursing facilities, clinics and outpatient hospital services.

The Committee Substitute to **HB 502** is as follows:

HB 502, AN ACT relating to Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall work with units of local government and any other interested entities to maximize state resources available to support the state Medicaid program.

(2) The cabinet shall receive and evaluate any proposal from a unit of local government or any other entity to utilize intergovernmental transfers, grants, taxes, donations or other locally available resources to provide the state match portion of the state Medicaid program. Notwithstanding any provision of KRS 42.450 to 42.495 to the contrary, coal severance tax proceeds which are allocated to the local government economic assistance fund and made available for use in or by a county may, if authorized by the county, be utilized under subsection (3) of this section as a resource for the state match portion for the state Medicaid program. If a proposal meets the requirements established under state and federal law, the cabinet shall submit the proposal to the federal Department of Health and Human Services for consideration.

(3) To the extent permitted by state and federal law, the cabinet shall work with units of local government and any other interested entities to develop financing arrangements that will establish an enhanced Medicaid payment for specifically designated health care providers and services including hospitals, nursing facilities, clinics and outpatient hospital services.

HB 516, AN ACT relating to prescription drugs dispensed through programs under the jurisdiction of the Cabinet for Health Services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares as follows:

- *(a) The science associated with the treatment and prevention of human immunodeficiency virus (HIV) and acquired immunodeficienty syndrome (AIDS) is rapidly evolving;*
- *(b) Appropriate recommended drug therapy associated with these conditions changes frequently;*
- *(c) New drug interventions for these conditions are safer, have fewer side effects, and are more likely to prolong the life of patients than their predecessors;*
- *(d) Physicians should have maximum flexibility when prescribing any drugs approved by the Federal Food and Drug Administration to allow them to individualize treatment plans for patients, to control treatment-associated drug resistance, to manage patient adherence, and to reduce drug side-effects;*
- *(e) Prompt access to the latest drug therapies improves the quality of life for patients; and*
- *(f) Prior authorization for these drug therapies may deny their availability to patients when prompt access is most appropriate.*

(2) Notwithstanding any provision of law to the contrary:

- *(a) The Cabinet for Health Services shall not establish any limits on, or restrict by any prior authorization, any prescription drug or laboratory or diagnostic test that is prescribed and determined to be medically necessary by a physician or other health care provider licensed by the Commonwealth of Kentucky for the treatment or prevention of human immunodeficiency virus or acquired immunodeficiency syndrome, or an opportunistic disease or infection associated with either of those conditions.*
- *(b) Prescription drugs excluded from any formulary limits or restrictions shall include, but not be limited to, the following classes:*
  - *1. Antiretroviral medications, including but not limited to protease inhibitors, nonnucleoside reverse transcriptase inhibitors, nucleoside reverse transcriptase inhibitors, antivirals, and fusion inhibitors; and*
  - *2. Any medications prescribed for HIV or AIDS for a person diagnosed with an HIV or AIDS related illness.*
- *(c) The cabinet shall make all exemptions and exclusions from formulary limitations identified in paragraph (b) of this subsection applicable to all programs operated by all offices, agencies, and departments under its jurisdiction.*

The Committee Substitute to **HB 516** is as follows:

HB 516, AN ACT relating to prescription drugs dispensed through programs under the jurisdiction of the Cabinet for Health Services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares as follows:

(a) The science associated with the treatment and prevention of human immunodeficiency virus (HIV) and acquired immunodeficienty syndrome (AIDS) is rapidly evolving;

(b) Appropriate recommended drug therapy associated with these conditions changes frequently; and

(c) New drug interventions for these conditions are safer, have fewer side effects, and are more likely to prolong the life of patients than their predecessors.

(2) Notwithstanding any provision of law to the contrary, the Cabinet for Health Services shall not establish any limits on, or restrict by any prior authorization, any prescription drug or laboratory or diagnostic test that is prescribed and determined to be medically necessary by a physician or other health care provider licensed by the Commonwealth of Kentucky for the treatment or prevention of human immunodeficiency virus or acquired immunodeficiency syndrome.

HB 529, AN ACT relating to long-term care ombudsman services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 216.537 TO 216.590 IS CREATED TO READ AS FOLLOWS:

The Commonwealth shall provide funding to supplement the federal Older Americans Act funds to provide:

(1) At least one (1) full-time district long-term care ombudsman position in each area development district; and

(2) A minimum of one (1) full-time equivalent ombudsman position for every two thousand (2,000) licensed long-term care facility beds in each area development district.

HB 571, AN ACT relating to the Board of Dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.130 is amended to read as follows:

The board may *issue a private admonishment*, reprimand, or place on probation, or may revoke, suspend, refuse to renew, or refuse to issue a license to any dentist for any of the following causes:

(1) Conviction of any felony or conviction of only those misdemeanors involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(2) Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.

(3) Unprofessional conduct, gross ignorance, or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.

(4) Violating any of the provisions of this chapter or any lawful order, rule, or regulation made or issued under the provisions of this chapter.

(5) Addiction to a drug habit.

(6) Chronic or persistent alcoholism.

(7) Such physical or mental disability, or other condition, that continued practice would be dangerous to patients or to the public.

A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

HB 575, AN ACT relating to personal and family care homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 216.750 TO 216.780 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health Services may grant a waiver to a licensed personal care home or family care home that would allow the home to continue to provide services to a resident whose condition has deteriorated beyond the regulatory scope of services *of the home. The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A specifying the criteria for granting, monitoring, denying, and revoking waivers issued pursuant to this section.*

HB 580, AN ACT relating to Medicaid estate recovery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

As used in this Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Aged institutionalized individual" means a Medicaid recipient age fifty-five (55) or older who received institutional services with payment for these services made, wholly or in part, by Medicaid;

(2) "Department" means the Department for Medicaid Services or its designee;

(3) "Estate" means:

(a) All real property or other assets owned by the deceased recipient that would be included as probate property under Kentucky law; and

(b) All real and personal property or other assets in which the deceased recipient had legal title or interest at the time of death, to the extent of the recipient's interest, whether the asset was conveyed to a survivor, heir, or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement;

(4) "Estate representative" means the court appointed fiduciary for the estate or the fiduciary's attorney;

(5) "Institutional services" means nursing facility services, intermediate care facility for the mentally retarded and developmentally disabled services, home and community based services, or supports for community living services;

(6) "Period of institutionalization" means the period of time an aged institutionalized or permanently institutionalized individual received services;

(7) "Permanently institutionalized" means residing in a nursing facility or intermediate care facility for the mentally retarded and developmentally disabled for six (6) months or more;

(8) "Recipient family member" means the surviving spouse, child, or sibling of a deceased recipient; and

(9) "Surviving child" means

(a) A child under the age of twenty-one (21); or

(b) A child who is blind or disabled, as defined in 42 U.S.C. sec. 1382c.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Medicaid Services shall seek recovery from the estate of a deceased recipient for a period of institutionalization. The amount recovered shall not exceed the amount paid by the Medicaid Program on behalf of the deceased recipient for services received during a period of institutionalization.

(2) The amount subject to recovery shall include:

(a) The expenditures for institutional services; and

(b) Other costs for related prescription drugs, hospital services, related physician services, Medicare cost-sharing, and Medicare premiums.

(3) The amount subject to recovery shall include a capitation payment made by the Medicaid Program to a managed care organization on behalf of the deceased recipient.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The department shall provide written notice of intent to pursue estate recovery to an aged institutionalized or permanently institutionalized individual, or an authorized representative acting on his or her behalf, at the time the individual applies for coverage of institutional services under the Medicaid Program. The application shall include the designation of an individual to receive notice of the intent to recover Medicaid expenditures upon the applicant's death.

(2) When an aged institutionalized or permanently institutionalized individual who is receiving institutional services under the Medicaid program dies, the Medicaid provider from which the recipient was receiving institutionalized services at the time of death shall be responsible for reporting the death to the local Department for Community Based Services office within ten (10) days of the date of death.

(3) Upon receipt of the notice of death specified in subsection (2) of this section, the department shall prepare and serve written notice of its intent to recover upon the estate representative. If no estate representative exists, notice shall be served on all family members or heirs the recipient identified to the department through the eligibility application process.

(4) The notice of intent to recover shall include:

(a) The action the department intends to initiate;

(b) The reason for the action;

(c) The total amount subject to recovery;

(d) Exemptions to estate recovery;

(e) Conditions that are considered an undue hardship exemption;

(f) Procedures for applying for an undue hardship exemption; and

(g) The procedure for appealing a denial of an undue hardship exemption request.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Recovery shall not be made from the estate if the estate representative can verify to the department's satisfaction that there is a surviving spouse or surviving child.

(2) The department shall waive estate recovery to the extent that the recovery would present an undue hardship as determined by the department on a case-by-case basis as set forth in this section. The department shall find that undue hardship exists if:

(a) An asset subject to recovery is the sole income-producing asset, which shall include but not be limited to a family farm or business, conveyed to the surviving recipient family member. A sole income-producing asset shall not include residential real property that produces income through lease or rental arrangement;

(b) There is a brother or sister with equity interest in the home, living in the home for at least one (1) year before the recipient went to a nursing home, and whose care allowed the recipient to delay nursing home placement. The sibling must have lived in the home continuously since the date of nursing home entry;

(c) There is a son or daughter who lived in the home for at least two (2) years before the recipient entered a nursing home and whose care allowed the recipient to delay nursing home placement. The son or daughter must have lived in the home continuously since the date of nursing home entry;

(d) Application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that the life or health of the waiver applicant would be endangered as determined by the department on a case-by-case basis;

(e) The heir or beneficiary would become or remain eligible for Supplemental Social Security income, food stamps, Temporary Assistance to Needy Families, Medicaid, or other public assistance, if the department pursued its claim;

(f) The heir or beneficiary is receiving general relief or veterans' benefits based on need; or

(g) Such other criteria exist as recognized by the department as constituting an undue burden on the estate or heirs.

(3) The department may grant an exemption from the estate recovery provisions on a case-by-case basis to the extent of the anticipated cost of continuing education or health care needs of an estate heir or if required based on the cost-effectiveness of recovery. The department shall not consider it to be cost-effective to recover from an estate if the total date-of-death value of the estate subject to recovery is:

(a) Less that the administrative cost of recovering the estate; or

(b) Ten thousand dollars ($10,000) or less.

(4) A deceased recipient's estate shall be subject to recovery of Medicaid Program expenditures if, through a final administrative appeal process or court action, it is found that the recipient qualified for Medicaid fraudulently. If the recipient qualified for Medicaid fraudulently, the exemptions or limitations established in this section shall not apply.

(5) The department shall promulgate an administrative regulation under KRS Chapter 13A to implement procedures for the application for an exemption or undue hardship waiver of estate recovery.

The Committee Substitute to **HB 580** is as follows:

HB 580, AN ACT relating to Medicaid estate recovery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Aged institutionalized individual" means a Medicaid recipient age fifty-five (55) or older who received institutional services with payment for these services made, wholly or in part, by Medicaid;

(2) "Department" means the Department for Medicaid Services or its designee;

(3) "Estate" means real property or other assets owned by the deceased recipient that would be included as probate property under Kentucky law;

(4) "Estate representative" means the court appointed fiduciary for the estate or the fiduciary's attorney;

(5) "Institutional services" means nursing facility services, intermediate care facility for the mentally retarded and developmentally disabled services, home and community based services, or supports for community living services;

(6) "Period of institutionalization" means the period of time an aged institutionalized or permanently institutionalized individual received services;

(7) "Permanently institutionalized" means residing in a nursing facility or intermediate care facility for the mentally retarded and developmentally disabled for six (6) months or more;

(8) "Recipient family member" means the surviving spouse, child, or sibling of a deceased recipient; and

(9) "Surviving child" means:

(a) A child under the age of twenty-one (21); or

(b) A child of the beneficiary of any age who is legally blind or who has been determined disabled under the federal Social Security Act, as defined in 42 U.S.C. sec. 1382c.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Medicaid Services shall seek recovery from the estate of a deceased recipient for a period of institutionalization. The amount recovered shall not exceed the amount paid by the Medicaid Program on behalf of the deceased recipient for services received during a period of institutionalization.

(2) The amount subject to recovery shall include:

(a) The expenditures for institutional services; and

(b) Other costs for related prescription drugs, hospital services, related physician services, Medicare cost-sharing, and Medicare premiums.

(3) The amount subject to recovery shall include a capitation payment made by the Medicaid Program to a managed care organization on behalf of the deceased recipient.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The department shall provide written notice of intent to pursue estate recovery to an aged institutionalized or permanently institutionalized individual, or an authorized representative acting on his or her behalf, at the time the individual applies for coverage of institutional services under the Medicaid Program. The application shall include the designation of an individual to receive notice of the intent to recover Medicaid expenditures upon the applicant's death.

(2) When an aged institutionalized or permanently institutionalized individual who is receiving institutional services under the Medicaid program dies, the Medicaid provider from which the recipient was receiving institutionalized services at the time of death shall be responsible for reporting the death to the local Department for Community Based Services office within ten (10) days of the date of death.

(3) Upon receipt of the notice of death specified in subsection (2) of this section, the department shall prepare and serve written notice of its intent to recover upon the estate representative. If no estate representative exists, notice shall be served on all family members or heirs the recipient identified to the department through the eligibility application process.

(4) The notice of intent to recover shall include:

(a) The action the department intends to initiate;

(b) The reason for the action;

(c) The total amount subject to recovery;

(d) Exemptions to estate recovery;

(e) Conditions that are considered an undue hardship exemption;

(f) Procedures for applying for an undue hardship exemption; and

(g) The procedure for appealing a denial of an undue hardship exemption request.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Recovery shall not be made from the estate if the estate representative can verify to the department's satisfaction that there is a surviving spouse or surviving child.

(2) The department shall waive estate recovery to the extent that the recovery would present an undue hardship as determined by the department on a case-by-case basis as set forth in this section. The department shall find that undue hardship exists if:

(a) An asset subject to recovery is the sole income-producing asset, which shall include but not be limited to a family farm or business, conveyed to the surviving recipient family member. A sole income-producing asset shall not include residential real property that produces income through lease or rental arrangement;

(b) There is a brother or sister with equity interest in the home, living in the home for at least one (1) year before the recipient went to a nursing home, and whose care allowed the recipient to delay nursing home placement;

(c) There is a son or daughter who lived in the home for at least two (2) years before the recipient entered a nursing home and whose care allowed the recipient to delay nursing home placement;

(d) Application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that

the life or health of the waiver applicant would be endangered as determined by the department on a case-by-case basis;

(e) The heir or beneficiary would become or remain eligible for Supplemental Security Income, food stamps, Temporary Assistance for Needy Families, Medicaid, veterans' benefits, or other public assistance, if the department pursued its claim;

(f) The heir or beneficiary is receiving Supplemental Security Income, food stamps, Temporary Assistance for Needy Families, Medicaid, veterans' benefits, or other public assistance based on need; or

(g) Such other criteria exist as recognized by the department as constituting an undue burden on the estate or heirs.

(3) The department may grant an exemption from the estate recovery provisions on a case-by-case basis to the extent of the anticipated cost of continuing education or health care needs of an estate heir or if required based on the cost-effectiveness of recovery. The department shall not consider it to be cost-effective to recover from an estate if the total date-of-death value of the estate subject to recovery is:

(a) Less than the administrative cost of recovering the estate; or

(b) A dollar amount to be determined by the department, but not less than ten thousand dollars ($10,000).

(4) A deceased recipient's estate shall be subject to recovery of Medicaid Program expenditures if, through a final administrative appeal process or court action, it is found that the recipient qualified for Medicaid fraudulently. If the recipient qualified for Medicaid fraudulently, the exemptions or limitations established in this section shall not apply.

(5) The department shall promulgate an administrative regulation under KRS Chapter 13A to implement procedures for the application for an exemption or undue hardship waiver of estate recovery.

HB 587, AN ACT relating to offenses against public health and safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.330 is amended to read as follows:

(1) The Department of Alcoholic Beverage Control and the Department of Agriculture shall carry out annually-conducted random, unannounced inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of KRS 438.305 to 438.340. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The departments shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of KRS 438.305 to 438.340 only if the testing is conducted under the direct supervision of the Department of Alcoholic Beverage Control, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department of Alcoholic Beverage Control shall ***provide***[~~prepare~~] annually ***to the Cabinet for Health Services any information necessary for the preparation of***[~~, for submission by the Governor to the Secretary of the United States Department of Health and Human Services,~~] the report ***that the Governor is*** required ***to submit to the Secretary of the United States Department of Health and Human Services*** by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

(2) The Department of Alcoholic Beverage Control shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

Section 2. KRS 438.337 is amended to read as follows:

(1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.

(2) The Department of Alcoholic Beverage Control shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the ***Finance and Administration***[~~Revenue~~] Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be deposited in[~~ a trust and agency account created in~~] the State Treasury, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.

(3) The Department of Alcoholic Beverage Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.

(4) The Department of Alcoholic Beverage Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors.

(5) Physical evidence seized in the course of administrative violations of KRS 438.305 to 438.340 shall be maintained by the Department of Alcoholic Beverage Control in a secured evidentiary storage facility.

(6) Following a hearing at which the defendant is found guilty or at which the defendant fails to appear, seized property may be ordered forfeited to the department upon order of the department.

(7) After the time to appeal has lapsed and if no appeal has been filed or the case has been affirmed on appeal, the department may order the forfeited property to be disposed of in the manner provided by and subject to the provisions of Section 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

If a civil fine assessed under KRS Chapter 438 is not been paid, the Department of Alcoholic Beverage Control may institute an action in the county where the individual defendant resides or where the entity is located or has its principle place of business. In any proceeding under this section in which the department is the prevailing party, the court shall award to the department:

(1) The amount of the fine that has not been paid;

(2) The costs, including but not limited to a reasonable attorney fee, any deposition fees, witness expenses, and court costs associated with pursuing the action; and

(3) Interest on the total amount of the judgment from the date of the department's order assessing the fine.

Section 4. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under ***Section 2 of this Act and*** any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained. ***Property other than firearms which is forfeited under Section 2 of this Act may be destroyed by the Department of Alcoholic Beverage Control.***

(b) Property other than firearms which is forfeited under ***Section 2 of this Act or*** any section of this code may, upon order of the ***Department of Alcoholic Beverage Control or*** trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state, if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.

(d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of ***Section 2 of this Act or*** any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under ***Section 2 of this Act or*** any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

HB 595, AN ACT relating to prescriptive authority of advanced registered nurse practitioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm;

(b) The maintenance of health or prevention of illness of others;

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
3. Intervening when emergency care is required as a result of drug therapy;
4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 ***and controlled substances included in schedule II as defined in KRS 218A.070, schedule III as defined in KRS 218A.090, schedule IV as defined in KRS 218A.110, and schedule V as defined in KRS 218A.120***, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane; and

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician.

Section 2. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or clinical nurse specialist.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."

(8) Before an advanced registered nurse practitioner engages in the prescribing or dispensing of nonscheduled legend drugs ***or controlled substances*** as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

(9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 3. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Cabinet" means the Cabinet for Health Services.

(4) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(5) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(6) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.

(9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

(11) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(13) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(14) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from

any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

(16) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, ***advanced registered nurse practitioner as authorized in KRS 314.011,*** or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, or veterinarian ***or advanced registered nurse practitioner as authorized in KRS 314.011*** who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

(22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian,[~~ or~~] optometric practitioner, ***or advanced registered nurse practitioner,*** and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(23) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

(24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(25) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(26) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(28) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with

intent to manufacture, distribute, dispense, or sell a controlled substance.

(29) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(30) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

The Committee Substitute to **HB 595** is as follows:

HB 595, AN ACT relating to prescriptive authority of advanced registered nurse practitioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

  (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

  (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

  (a) The care, counsel, and health teaching of the ill, injured, or infirm;

  (b) The maintenance of health or prevention of illness of others;

  (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;

    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

    3. Intervening when emergency care is required as a result of drug therapy;

    4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

    5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

    6. Instructing an individual regarding medications;

  (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

  (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled

legend drugs as defined in KRS 217.905 ***and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130***, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane; and

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician.

Section 2. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or

clinical nurse specialist.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."

(8) Before an advanced registered nurse practitioner engages in the prescribing or dispensing of nonscheduled legend drugs ***or the prescribing of controlled substances*** as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

(9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 3. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Cabinet" means the Cabinet for Health Services.

(4) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(5) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(6) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a

manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.

(9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

(11) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(13) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(14) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

(16) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, ***advanced registered nurse practitioner as authorized in KRS 314.011,*** or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, or veterinarian ***or advanced registered nurse practitioner as authorized in KRS 314.011*** who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

(22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian,[~~or~~] optometric practitioner, ***or advanced registered nurse practitioner,*** and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(23) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

(24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(25) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(26) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(28) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(29) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(30) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

HR 189, A RESOLUTION urging the United States Congress to pass the "Calling For 2-1-1 Act," directing funds to the states for the national implementation of a 2-1-1 dialing code system for health and human service information and referral.

WHEREAS, "2-1-1" is an easy-to-remember telephone number that facilitates critical connections between individuals and families seeking human service agencies, including community-based and faith-based organizations and government programs, or both; and

WHEREAS, there are approximately 900,000 nonprofit organizations in the United States, and families and individuals often have difficulty navigating the complex and ever-growing maze of human services agencies and programs to find the services that they need; and

WHEREAS, federal, state, and local government funding supports well-intentioned programs that are not fully utilized because of a lack of access to information on such programs; and

WHEREAS, 2-1-1 will reduce the number of inappropriate calls to government offices by directing consumers to the appropriate human services agency, resulting in a more effective use of government services; and

WHEREAS, 2-1-1 is efficient and cost effective and will increase the efficiency and operations of a beleaguered and overcomplicated health and human service delivery system, and will save both private and state government dollars; and

WHEREAS, getting a person the correct information at the right time allows him or her to get help sooner, and usually at a lower cost, and allows resources invested in nonprofit programs and/or government services to go further so that more people can be served; and

WHEREAS, 2-1-1 currently reaches 23% of the United States population and is a model public/private partnership currently funded by state and local governments, United Ways, and other nonprofit organizations, foundations, and corporate donations; and

WHEREAS, 2-1-1 brings the public and private sector together in ways never before seen to leverage and stretch resources for the good of each citizen; and

WHEREAS, 2-1-1 will streamline access to existing services, improve implementation of services, enhance information for community planning, increase civic involvement, and serve as a focal point for developing policies that address community needs through identifying gaps in local services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The United States Congress is urged to pass the "Calling For 2-1-1 Act" and direct funds to the states for the national implementation of a 2-1-1 dialing code system for health and human service information and referral.

Section 2. The Clerk of the House of Representatives is directed to forward a copy of this Resolution to each member of the Kentucky delegation to the United States Congress.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Relations reported **HB 387, HB 484,** with Committee Substitute attached thereto, **HB 615, HB 635,** and **HCR 102** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 387, AN ACT relating to presidential elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him ***or her***, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his ***or her*** residence, Social Security number or date of birth, and post-office address***, except that, for a petition for presidential electors, the petitioner shall not be required to include his or her Social Security number***. Failure of a voter to include his ***or her*** Social Security number or date of birth and address shall result in his ***or her*** signature not being counted***, unless the voter has signed a petition for presidential electors, in which case the failure of a voter to include his or her date of birth and residence address shall result in his or her signature not being counted***. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his ***or her*** signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 2. KRS 118.591 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of President of the United States, or any group organized in this state on behalf of, and with the consent of, the person, may file with the Secretary of State certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by registration, with the same political party as the candidate for whom petitions are filed. ***Each petitioner shall include his or her residence address, date of birth, and post-office address. Failure of a voter to include his or her date of birth and residence address shall result in his or her signature not being counted.***

(2) The petitions shall be filed by the petitioners with the Secretary of State no later than the last Tuesday in January preceding a presidential preference primary.

(3) The petitions shall state:

- (a) The name of the candidate for nomination and the party of which he is a member; and
- (b) The name and address of the chairman of the group circulating such petition.

(4) The Secretary of State shall determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed the petitions.

(5) In lieu of the petition requirements of subsections (1) to (4) of this section, a candidate may qualify to appear on the presidential preference primary ballot of his political party by filing with the Secretary of State, no later than the last Tuesday in January preceding a presidential preference primary, a notice of candidacy signed by the candidate and either of the following:

- (a) A certification by the Federal Election Commission that, by the filing deadline, the candidate has qualified for matching federal campaign funds; or
- (b) Evidence that, by the filing deadline, the candidate's name is qualified to appear on the presidential preference primary ballot of his political party in at least twenty (20) other states.

(6) The Secretary of State shall determine the sufficiency of the documentation provided pursuant to subsection (5) of this section and shall immediately communicate his determination to the candidate or his agent.

HB 484, AN ACT relating to changes in party affiliation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any political party, as defined in KRS 118.015, or any individual that provided campaign contributions to a candidate who, subsequent to a candidate's election to the office for which the contribution was made, changes the party affiliation from that which the candidate swore loyalty to under oath in his or her notification and declaration under KRS 118.125, may bring a civil action against the candidate for recoupment of those contributions, any interest which may have accrued after the contribution, and reasonable attorney's fees.

(2) Any action under this section shall be filed within ninety (90) days of the candidate's change of party affiliation. The action shall be filed in the county of the candidate's residence.

(3) Upon commencement of any action filed under this section, the clerk of the court shall mail a copy of the complaint or other initial pleading to the Registry of Election Finance and, upon entry of any judgment or decree in the action, shall mail a copy of the judgment or decree to the Registry of Election Finance.

The Committee Substitute to **HB 484** is as follows:

HB 484, AN ACT relating to changes in party affiliation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) If a candidate changes his party affiliation from that which he swore loyalty to under oath in his or her notification and declaration under KRS 118.125 for that office subsequent to that candidate's election to the office, any political party, as defined in KRS 118.015, or any individual who made campaign contributions to that candidate may bring a civil action against the candidate for recoupment of those contributions if they were made for the election which resulted in the candidate's election to the current term of office. The party or individual may also receive any interest which may have accrued after the contribution, at the legal rate of interest, and reasonable attorney's fees.

(2) Any action under this section shall be filed within ninety (90) days of the candidate's change of party affiliation. The action shall be filed in the county of the candidate's residence.

(3) Upon commencement of any action filed under this section, the clerk of the court shall mail a copy of the complaint or other initial pleading to the Registry of Election Finance and, upon entry of any judgment or decree in the action, shall mail a copy of the judgment or decree to the Registry of Election Finance.

HB 615, AN ACT proposing an amendment to Sections 109, 230, and 43 of the Constitution of Kentucky relating to the government of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 109 of the Constitution of Kentucky be amended to read as follows:

(1) The judicial power of the Commonwealth shall be vested exclusively in one Court of Justice which shall be divided into a Supreme Court, a Court of Appeals, a trial court of general jurisdiction known as the Circuit Court and a trial court of limited jurisdiction known as the District Court. The court shall constitute a unified judicial system for operation and administration.

(2) The impeachment powers of the General Assembly shall remain inviolate.

(3) The court shall have the power to determine if acts of the General Assembly are in compliance with this Constitution and the Constitution of the United States, and to rule invalid any act found unconstitutional, but shall not order substitution of alternative law for any act found unconstitutional. The court shall not order the General Assembly or a member thereof to pass any law, including but not limited to the creation or increase of any tax, fee, or appropriation. The court shall not order money drawn from the State Treasury, unless the order of the court mandates compliance with an appropriation made or expenditure authorized in accordance with Section 230 of this Constitution.

(4) The appropriation powers of the General Assembly shall remain inviolate. The proportion of the Commonwealth's total revenue that is provided by the General Assembly for any act or program shall be within the sole discretion of the General Assembly. The court shall have no power to declare an act or program unconstitutional based upon the exercise of this discretion.

Section 2. It is proposed that Section 230 of the Constitution of Kentucky be amended to read as follows:

The appropriation power provided by this section shall be vested solely in the General Assembly. No money shall be drawn from the State Treasury *or expended*, except in pursuance of appropriations made *or expenditures authorized* by *act of the General Assembly*~~[law]~~; and a regular statement and account of the receipts and expenditures of all public money shall be published annually. No money derived from excise or license taxation relating to gasoline and other motor fuels, and no moneys derived from fees, excise or license taxation relating to registration, operation, or use of vehicles on public highways shall be expended for other than the cost of administration, statutory refunds and adjustments, payment of highway obligations, costs for construction, reconstruction, rights-of-way, maintenance and repair of public highways and bridges, and expense of enforcing state traffic and motor vehicle laws.

Section 3. It is proposed that Section 43 of the Constitution of Kentucky be amended to read as follows:

(1) The members of the General Assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance on the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

(2) Any party choosing to challenge the constitutionality, validity, or application of any act of the General Assembly shall name as parties defendant the Attorney General and, as appropriate, the branch, agency, officers, or entities designated by act of the General Assembly to administer the act or program challenged. The General Assembly, members of the General Assembly, the Legislative Research Commission, organizations within the legislative department of government, or officers or employees within the legislative department of government shall not without its, his, or her consent be made a party to any action challenging or seeking a declaration concerning the constitutionality, validity, or application of any act of the General Assembly, or the action or failure to take action by the General Assembly or any member thereof with respect to any duty under this Constitution.

Section 4. The question to be presented to the voters on the ballot shall be as follows:

"Are you in favor of amending Section 109 of the Constitution of Kentucky to prohibit courts from ordering substitution of alternative law for any act found unconstitutional by a court, and to prohibit courts from ordering the General Assembly to pass laws, including laws to increase taxes or appropriations; amending Sections 109 and 230 to clarify that public money may be spent only by act of the General Assembly, and to limit the power of courts on matters involving appropriation of public money; and amending Section 43 to designate the parties to be named when challenging the constitutionality of a law, and allowing the legislative department, with its consent, to also be named?". A "yes" vote favors the proposed changes. A "no" vote opposes the proposed changes.

Section 5. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 635, AN ACT relating to voter assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form.

(3) Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter***; however, a person who is not an election officer shall not assist more than five (5) voters in any one (1) election***.

(4) The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs.

(5) A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct.

(6) "Voting booth" or "ballot completion area" means an area in which a voter casts his vote or completes his ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific reason that requires him to receive assistance.

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12) The election sheriff shall be responsible for reporting violations of this section.

Section 2. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent or annual basis, any person voting by means of an absentee ballot by mail or on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of an absentee ballot by mail or on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall complete the voter assistance form required by KRS 117.255. ***A person who is not an election officer shall not assist more than five (5) voters, including those casting paper absentee ballots or voting on the machine in the county clerk's office, or other place designated by the county board of elections and approved by the State Board of Elections, in any one (1) election.***

(3) The detachable flap on all absentee ballot envelopes shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

HCR 102, A CONCURRENT RESOLUTION petitioning the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several States, to provide for Christmas as a national holiday.

WHEREAS, the right of the people to enjoy and celebrate the Christmas holiday has been under recent attack in the courts; and

WHEREAS, despite the recent decision of the 6th Circuit Court of Appeals in the case of Ganulin v. United States of America that upholds the long-standing practice of recognizing the Christmas holiday, it may be anticipated that other states and localities may encounter resistance to observing this important holiday; and

WHEREAS, the Christmas holiday is recognized by the Commonwealth of Kentucky as a state holiday; and

WHEREAS, the Christmas holiday is recognized by the federal government as a holiday; and

WHEREAS, the federal Constitution should be amended to provide that the Christmas holiday shall be a recognized national holiday in order to acknowledge our Christian heritage; and

WHEREAS, public displays relating to the Christmas holiday should be legally allowed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky hereby petitions the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several States for ratification, to recognize Christmas day as a national holiday.

Section 2. The text of the proposed amendment to the Constitution of the United States should read substantially as follows:

"December Twenty-Fifth of each year, Christmas Day, shall be a legal public holiday. Public displays, in schools or other public buildings, relating to this holiday, shall be permitted."

Section 3. Certified copies of this Concurrent Resolution shall be transmitted by the Secretary of State to the Administrator of General Services of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to each member of the Commonwealth's delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature of the several States.

The Committee on Transportation reported **HB 357**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 357** is as follows:

HB 357, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within ***thirty (30)***[~~sixty (60)~~] days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for persons with disabilities;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) No person shall move a vehicle not lawfully under his control into any such prohibited area.

(7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 2. KRS 376.275 is amended to read as follows:

(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. The notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle, for the reasonable or agreed charges for storing or towing the vehicle, as long as it remains in his possession. If after a period of ***thirty (30)***[~~forty-five (45)~~] days the reasonable or agreed charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner has been notified by certified mail ten (10) days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, transporting, and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting, and storage charges by the owner or responsible casualty insurer of the vehicle. This lien shall be subject to prior recorded liens.

(4) The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.

The Committee on Transportation reported **HB 514,** with Committee Substitute attached thereto, **HB 526**, with Committee Substitute and Committee Amendment attached thereto, **HB 562**, with Committee Substitute attached thereto, **HB 596, HJR 10, HJR 18, HJR 126, HJR 192,** and **HCR 194** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 514, AN ACT relating to highway work zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.2325 is amended to read as follows:

(1) The secretary of the Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the posting of signs advising motorists that penalties are increased for traffic violations occurring on state-maintained streets or state-maintained highways in a highway work zone. The administrative regulations promulgated by the cabinet shall include guidelines to determine which areas are appropriate to the posting of these signs. The guidelines may include, but are not limited to, the following:

(a)[~~(1)~~] The duration of the work on the highway;

(b)[~~(2)~~] The proximity of workers to moving traffic;

(c)[~~(3)~~]The existence of any unusual or hazardous conditions;

(d)[~~(4)~~] The volume of traffic on the highway; and

(e)[~~(5)~~]Other appropriate factors as determined by the secretary.

(2) Each highway work zone shall be identified in the following manner:

(a) Signs indicating that a highway work zone is ahead and indicating the speed limit in the work zone, with one (1) sign placed one thousand five hundred (1,500) feet prior to the start of the work zone, one (1) sign placed one thousand (1,000) feet prior to the start of the work zone, and one (1) sign placed five hundred (500) feet prior to the start of the work zone; and

(b) At least one (1) flashing yellow light which is at least the same size as the flashing yellow light placed at the start of a school zone at the start of the work zone together with a work zone speed limit sign placed at the start of the work zone.

(3) The flashing yellow light at the start of a work zone shall be illuminated and in operation during all times when workers are physically present in the work zone and shall be turned off or removed when workers are not physically present in the work zone.

(4) Failure to illuminate the flashing yellow light or failure to turn off or remove the flashing yellow light when workers are or are not physically present in the work zone constitutes official misconduct in the first degree as provided in KRS 522.020.

Section 2. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over	Prima Facie or Maximum Speed											
Limit	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32

17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled. ***No fine shall be doubled for speeding in a work zone unless, at the time of the offense:***

(a) The prior warning signs were posted as required in Section 1 of this Act;

(b) The yellow flashing light at the beginning of the work area was in operation and flashing; and

(c) At least one (1) bona fide worker was physically present in the work zone. A peace officer posing as a worker does not constitute a bona fide worker.

(6) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

The Committee Substitute to **HB 514** is as follows:

HB 514, AN ACT relating to highway work zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.2325 is amended to read as follows:

(1) The secretary of the Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the posting of signs advising motorists that penalties are increased for traffic violations occurring on state-maintained streets or state-maintained highways in a highway work zone. The administrative regulations promulgated by the cabinet shall include guidelines to determine which areas are appropriate to the posting of these signs. The guidelines may include, but are not limited to, the following:

(a)[~~(1)~~] The duration of the work on the highway;

(b)[~~(2)~~] The proximity of workers to moving traffic;

(c)[~~(3)~~]The existence of any unusual or hazardous conditions;

(d)[~~(4)~~] The volume of traffic on the highway; and

(e)[~~(5)~~]Other appropriate factors as determined by the secretary.

(2) Each highway work zone shall be identified in the following manner:

(a) Signs indicating that a highway work zone is ahead and indicating the speed limit in the work zone, with one (1) sign placed one thousand five hundred (1,500) feet prior to the start of the work zone, one (1) sign placed one thousand (1,000) feet prior to the start of the work zone, and one (1) sign placed five hundred (500) feet prior to the start of the work zone; and

(b) At least one (1) flashing yellow light which is at least the same size as the flashing yellow light placed at the start of a school zone at the start of the work zone together with a work zone speed limit sign placed at the start of the work zone.

(3) The flashing yellow light at the start of a work zone shall be illuminated and in operation during all times when workers are physically present in the work zone and shall be turned off or removed when workers are not physically present in the work zone.

Section 2. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed											
	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled. ***A fine shall not be doubled for speeding in a work zone unless, at the time of the offense:***

(a) The prior warning signs were posted as required in Section 1 of this Act;

(b) The yellow flashing light at the beginning of the work area was in operation and flashing; and

(c) At least one (1) bona fide worker was physically present in the work zone. A peace officer posing as a worker does not constitute a bona fide worker.

(6) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

HB 526, AN ACT relating to the Motor Vehicle Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

The Motor Vehicle Commission shall not charge any person licensed under this chapter any fee that is not expressly set forth in this chapter. The Motor Vehicle Commission shall not attempt to circumvent the provisions of this section by promulgating one (1) or more administrative regulations to establish and charge fees that are not established in a section of this chapter.

The Committee Substitute to **HB 526** is as follows:

HB 526, AN ACT relating to the Motor Vehicle Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Motor vehicle information entered into the Transportation Cabinet's Automated Vehicle Information System shall be made available to persons licensed under this chapter as needed to expedite the titling and transfer of motor vehicles. The Transportation Cabinet shall implement the provisions of KRS 186A.060 at a cost that is not more than the cabinet's actual documented cost of providing persons licensed under this chapter access to the data.

(2) The Transportation Cabinet shall not include administrative fees or other charges in the cabinet's documented cost to provide access to the data under subsection (1) of this section. Any provider of a program offering information to persons licensed under this chapter shall provide the information at a cost identical to the cost charged by the Transportation Cabinet.

The Committee Amendment No. 1 Title to **HB 526** is as follows:

HB 526, On page 1, amend the title to read as follows:

"AN ACT relating to motor vehicles.".

HB 562, AN ACT relating to the issuance of operator's licenses and nondriver identification cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

- (a) Full legal name and signature;
- (b) Date of birth;
- (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
- (d) Sex;
- (e) Present Kentucky resident address, exclusive of a post office box address alone;
- (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
- (g) A brief physical description of the applicant;
- (h) A statement if the person has previously been licensed as an operator in another state;
- (i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
- (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall***, when applying for an operator's license,*** present ***to the cabinet documentation issued by the United States Department of Homeland Security, U.S. Citizenship and Immigration Services to verify the person has been lawfully admitted to the United States. The documentation shall include a photograph of the applicant, which***

may be a passport with a photograph of the applicant if the passport has been properly stamped by the United States Department of Homeland Security, U.S. Citizenship and Immigration Services. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the documentation issued by the United States Department of Homeland Security, U.S. Citizenship and Immigration Services that will be accepted under this subsection.[~~one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:~~

~~(a) An I-551 card with a photograph of the applicant; or~~

~~(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."~~]

(4) ***A***[~~If the~~] person ***who*** is not a United States citizen***, including a person who has***[~~and has not~~] been granted status as a permanent resident of the United States, ***shall apply***[~~the person's application~~] for an original operator's license ***or a nondriver's identification card***[~~shall be submitted~~] to either the ***cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state***[~~Transportation Cabinet in Frankfort or a Transportation Cabinet field office~~].

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~], authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license ***or nondriver's identification card***. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license ***or nondriver's identification card***, the cabinet shall issue the person ***a certificate of verification***[~~an official form~~] that the person shall take to the office of the circuit clerk of the county where the person resides. ***After*** the circuit clerk ***reviews***[~~shall review~~] the person's ***identification*** documentation and the ***certificate of verification***[~~official form issued by the Transportation Cabinet. If the documentation is verified as accurate~~], and if ***applicable, documentation that*** the person ***has*** successfully ***completed***[~~completes~~] the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license ***or nondriver's identification card***.

(d) [~~Except as provided in paragraphs (e) and (f) of this subsection,~~]A person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license ***or nondriver's identification card***, or obtain a duplicate operator's license ***or nondriver's identification card, at either the cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state. Upon verification of the applicant's identity and address, the cabinet shall present the applicant a certificate of verification. The applicant shall present the certificate of verification and his or her identification documentation to***[~~, in the office of~~] the circuit clerk in the county in which the person resides ***for the issuance of a renewal operator's license or nondriver's identification card, or a duplicate operator's license or nondriver's identification card***.

(e)[~~If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.~~

~~(f)~~] If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license ***or nondriver's identification card*** with either the ***cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state***[~~Transportation Cabinet in Frankfort or a Transportation Cabinet field office~~].

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk

shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to ***either a cabinet official or*** the circuit clerk as to the truthfulness of the statements contained in the ***application***[~~form~~].

(7) (a) [~~Except as provided in subsection (8) of this section,~~]The circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county***,*** who complies with the provisions of this section***,***[~~ and~~] who applies in person in the office of the circuit clerk***, and if applicable, who complies with the provisions of subsection (4) of this section***. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use ***for proof of verification of***[~~ as~~] proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to ***a cabinet official or*** the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) ***An initial or renewal***[~~A~~] nondriver's identification card shall be valid for a period of ***one (1) year***[~~four (4) years~~] from the date of issuance. ***A duplicate nondriver's identification card shall be valid until the expiration date of the originally issued nondriver's identification card***[~~Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card~~].

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet ***or the circuit clerk*** when applying for the card.

(8)[~~ A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.~~

~~(9)~~] The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(9)[~~(10)~~] If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section***, or be issued a duplicate license,*** by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(10) If a citizen of the Commonwealth is currently located outside the boundaries of the Commonwealth for purposes other than military service, he or she may renew a Class D operator's license or be issued a duplicate license by mail upon application to and approval of the secretary of the cabinet or his or her designee. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify conditions under which the secretary will renew a license or issue a duplicate license by mail under the provisions of this subsection.

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection ***(9) or*** (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. ***Between the effective date of this Act and March 31, 2006,*** an operator's license being renewed by mail under subsection ***(9) or*** (10) of this section shall be issued a license without a photograph ***unless a digital photograph is presently maintained in the cabinet's driver's license information system. If a digital photograph is not presently maintained,***[~~.~~] the license shall show in the space provided for the photograph the legend "valid without photo and signature." ***Beginning April 1, 2006, a license issued under subsection (9) or (10) of this section shall be issued utilizing the digital photograph from the applicant's previous license issuance that is maintained in the cabinet's driver's license information system. A license issued under subsection (9) or (10) of this section shall be renewed in person within thirty (30) days of the citizen's return to the Commonwealth.***

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 2. KRS 186.430 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person over the age of sixteen (16) who is a United States citizen and who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:

(a) The person possesses a valid license issued by the person's home state;

(b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and

(c) The person's home state accords similar privileges to licensed residents of Kentucky.

(2) A person who is a United States citizen but who is not a resident of Kentucky who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.

(3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued by the person's country of domicile and shall not be required to obtain a Kentucky driver's license.

(4) A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of KRS 186.412.[~~ Except as provided in this subsection,~~] An operator's license issued to a person who is not a United States citizen[~~, who has not been granted status as a permanent resident of the United States, and who is not a special status individual~~] but is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~] is issued, or ***one (1) year***[~~four (4) years~~], whichever time period is shorter.[~~ An initial or renewal operator's license shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date.~~] The fee shall be the same as for a regular operator's license. The cabinet may at any time[~~ refuse or discontinue the exemptions authorized in this section for any grounds and may~~] deny, cancel, suspend, or revoke an instruction permit or operator's license issued under this chapter.

(5) A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this state has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this state under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

Section 3. KRS 186.435 is amended to read as follows:

(1) A licensed driver who becomes a Kentucky resident shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.

(2) The circuit clerk shall, before issuing a person a Kentucky operator's license, verify through the National Drivers Register that the person applying for a Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction. ***The applicant shall provide the clerk with his or her out of state operator's license in addition to two (2) other forms of identification.***

(3) The circuit clerk shall refer the applicant to either the cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state if there is a question about the validity or interpretation of the out-of-state license or documentation presented to the clerk. If referred to the cabinet, upon verification of the applicant's identifying documentation, the cabinet shall issue him or her a certificate of verification that the applicant shall present to the circuit clerk in accordance with this section.

(4)[~~(3)~~] A person who is not a United States citizen but who has been granted permanent resident status by the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~], and who is a Kentucky resident, shall ***apply for a Kentucky operator's license in either the cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state. Upon verification of the applicant's identity and address, the cabinet shall issue a certificate of verification. The applicant shall present the certificate of verification to the circuit clerk in the county of the applicant's residence and*** follow the same procedures for applying for an original, renewal, transfer, or duplicate operator's license as persons who are United States citizens.

Section 4. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person who is not a resident of Kentucky;

(2) Any person under the age of sixteen (16);

(3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(4) Any person whose operator's license has been suspended, during the period of suspension, subject to the limitations of

KRS 186.442;

(5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege ***has been denied, canceled, suspended, or revoked***~~[of exemption]~~ under KRS 186.430~~[has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued]~~;

(6) Any applicant adjudged incompetent by judicial decree;

(7) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(8) Any person who is unable to understand highway warnings or direction signs in the English language;

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 5. KRS 186.580 is amended to read as follows:

(1) If the circuit clerk refuses to issue a license or a motorcycle operator's license to an applicant, the applicant may appeal to the cabinet.

(2) If ***the cabinet refuses to issue a certificate of verification to an applicant, or if*** any person is aggrieved by any final order of the cabinet relating to the denial, revocation, suspension, or cancellation of an operator's license or motorcycle operator's license other than orders of revocation or suspension when the facts render revocation or suspension mandatory, he ***or she*** may file a petition for judicial review in the Circuit Court of the county in which he resides, or in the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 6. The following KRS section is repealed:

186.5315 Posting of notice about 1994 increases in fees of circuit clerks.

The Committee Substitute to **HB 562** is as follows:

HB 562, AN ACT relating to the issuance of operator's licenses and nondriver identification cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in ***this subsection and*** subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

The circuit clerk shall refer an applicant to either the cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state if the clerk has a question about the validity or interpretation of the documentation presented to the clerk under this subsection. If referred to the cabinet, upon verification of the applicant's identifying documentation, the cabinet shall issue the applicant a certificate of verification that he or she shall present to the circuit clerk to continue the application process.

(3) A permanent resident shall***, when applying for an operator's license,*** present ***to the circuit clerk documentation issued by the United States Department of Homeland Security, U.S. Citizenship and Immigration Services to verify the person has been lawfully admitted to the United States. The documentation shall include a photograph of the applicant, which may be a passport with a photograph of the applicant if the passport has been properly stamped by the United States Department of Homeland Security, U.S. Citizenship and Immigration Services. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the documentation issued by the United States Department of Homeland Security, U.S. Citizenship and Immigration Services that the clerk may accept under this subsection.***~~[one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:~~

~~(a) An I-551 card with a photograph of the applicant; or~~

~~(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until ——. Employment authorized."]~~

(4) ***A***~~[If the]~~ person ***who*** is not a United States citizen and ***who*** has not been granted status as a permanent resident of the United States, ***shall apply***~~[the person's application]~~ for an original operator's license ***or a nondriver's identification card***~~[shall be submitted]~~ to either the ***cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state***~~[Transportation Cabinet in Frankfort or a Transportation Cabinet field office]~~.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***~~[Justice, Immigration and Naturalization Service]~~, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license ***or nondriver's identification card***. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license ***or nondriver's identification card***, the cabinet shall issue the person ***a certificate of verification***~~[an official form]~~ that the person shall take to the office of the circuit clerk of the county where the person resides. ***After*** the circuit clerk ***reviews***~~[shall review]~~ the person's ***identification*** documentation and the ***certificate of verification***~~[official form issued by the Transportation Cabinet. If the documentation is verified as accurate]~~, and if ***applicable, documentation that*** the person ***has*** successfully ***completed***~~[completes]~~ the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license ***or nondriver's identification card***.

(d) ~~[Except as provided in paragraphs (e) and (f) of this subsection,]~~A person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license ***or nondriver's identification card***, or obtain a duplicate operator's license ***or nondriver's identification card, at either the cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state. Upon verification of the applicant's identity and address, the cabinet shall present the applicant a certificate of verification. The applicant shall present the certificate of verification and his or her identification documentation to***~~[, in the office of]~~ the circuit clerk in the county in which the person resides ***for the issuance of a renewal operator's license or nondriver's identification card, or a duplicate operator's license or nondriver's***

identification card.

(e)[~~If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.~~

~~(f)~~] If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license ***or nondriver's identification card*** with either the ***cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state***[~~Transportation Cabinet in Frankfort or a Transportation Cabinet field office~~].

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses***, hats,*** or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses***, hats,*** or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses***, hats,*** or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to ***either a cabinet official or*** the circuit clerk as to the truthfulness of the statements contained in the ***application***[~~form~~].

(7) (a) [~~Except as provided in subsection (8) of this section,~~]The circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county***,*** who complies with the provisions of this section***,***[~~ and~~] who applies in person in the office of the circuit clerk***, and if applicable, who complies with the provisions of subsection (4) of this section***. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use ***for proof of verification of***[~~ as~~] proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to ***a cabinet official or*** the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) ***An initial or renewal***[~~A~~] nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. ***A duplicate nondriver's identification card shall be valid until the expiration date of the originally issued nondriver's identification card.*** Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~] is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~], is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet ***or the circuit clerk*** when applying for the card.

(8)[~~A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky~~

~~instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.~~

~~(9)~~] The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(9)[~~(10)~~] If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the ***United States***[~~Commonwealth~~], the citizen may renew a Class D operator's license issued under this section***, or be issued a duplicate license,*** by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(10) If a citizen of the Commonwealth is currently located outside the boundaries of the United States for purposes other than military service, he or she may renew a Class D operator's license or be issued a duplicate license by mail upon application to and approval of the secretary of the cabinet or his or her designee. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify conditions under which the secretary will renew a license or issue a duplicate license by mail under the provisions of this subsection.

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection ***(9) or*** (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection ***(9) or*** (10) of this section shall be issued ***utilizing the digital photograph from the applicant's previous license issuance that is maintained in the cabinet's driver's license information system. If a digital photograph is not maintained in the cabinet's driver's license information system, the citizen shall retain his or her existing license and the cabinet shall extend the expiration date on the citizen's license, for a period not to exceed one (1) year. The cabinet shall provide the citizen with documentation verifying the expiration date of the license. A license issued under subsection (9) or (10) of this section shall be renewed in person within ninety (90) days of the citizen's return to the United States.***[~~a license without a photograph. the license shall show in the space provided for the photograph the legend "valid without photo and signature."~~]

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the ***United States***[~~Commonwealth~~], be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 2. KRS 186.430 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person over the age of sixteen (16) who is a United States citizen and who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:

(a) The person possesses a valid license issued by the person's home state;

(b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and

(c) The person's home state accords similar privileges to licensed residents of Kentucky.

(2) A person who is a United States citizen but who is not a resident of Kentucky who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.

(3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued by the person's country of domicile and shall not be required to obtain a Kentucky driver's license.

(4) A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of KRS 186.412. Except as provided in this subsection, an operator's license issued to a person who is not a United States citizen, who has not been granted status as a permanent resident of the United States, and who is not a special status individual but is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~] is issued, or four (4) years, whichever time period is shorter. An initial or renewal operator's license shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***[~~Justice, Immigration and Naturalization Service~~], is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular operator's license. The cabinet may at any time refuse or discontinue the exemptions authorized in this section for any grounds and may deny, cancel, suspend, or revoke an instruction permit or operator's license issued under this chapter.

(5) A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this state has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this state under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

Section 3. KRS 186.435 is amended to read as follows:

(1) A licensed driver who becomes a Kentucky resident shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.

(2) The circuit clerk shall, before issuing a person a Kentucky operator's license, verify through the National Drivers Register that the person applying for a Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction. ***The applicant shall provide the clerk with his or her out of state operator's license in addition to two (2) other forms of identification.***

(3) The circuit clerk shall refer the applicant to either the cabinet's offices in Frankfort or one (1) of the cabinet's field offices located throughout the state if the clerk has a question about the validity or interpretation of the out-of-state license or documentation presented to the clerk. If referred to the cabinet, upon verification of the applicant's identifying documentation, the cabinet shall issue him or her a certificate of verification that the applicant shall

present to the circuit clerk in accordance with this section.

(4)~~[(3)]~~ A person who is not a United States citizen but who has been granted permanent resident status by the United States Department of ***Homeland Security, U.S. Citizenship and Immigration Services***~~[Justice, Immigration and Naturalization Service]~~, and who is a Kentucky resident, shall follow the same procedures for applying for an original, renewal, transfer, or duplicate operator's license as persons who are United States citizens.

Section 4. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person who is not a resident of Kentucky;

(2) Any person under the age of sixteen (16);

(3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(4) Any person whose operator's license has been suspended, during the period of suspension, subject to the limitations of KRS 186.442;

(5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege ***has been denied, canceled, suspended, or revoked***~~[of exemption]~~ under KRS 186.430~~[has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued]~~;

(6) Any applicant adjudged incompetent by judicial decree;

(7) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(8) Any person who is unable to understand highway warnings or direction signs in the English language;

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 5. KRS 186.520 is amended to read as follows:

(1) A person whose license has been legitimately lost or destroyed, shall apply to the circuit clerk in the county in which the most recent permanent license was obtained in order to make application for a duplicate license. He shall furnish satisfactory proof by affidavit substantiating the loss or destruction when applying for a duplicate license.

(2) ***Notwithstanding any provision to the contrary, a person currently in possession of a permanent nondigital license may apply for a duplicate digital license prior to the designated expiration date. The fee for a duplicate license issued under this subsection shall be as established for duplicate licenses under KRS 186.531***~~[A person whose chauffeur's license has been legitimately lost or destroyed shall apply to the circuit clerk in the county in which the most recent permanent license was obtained in order to make application for a duplicate license. He shall furnish satisfactory proof by affidavit substantiating the loss or destruction when applying for a duplicate license. The fee for a duplicate license shall be according to the schedule set forth in KRS 186.531, and fifty cents ($0.50) shall be submitted to the Transportation Cabinet in compliance with KRS 186.400 through 186.490]~~.

Section 6. KRS 186.580 is amended to read as follows:

(1) If the circuit clerk refuses to issue a license or a motorcycle operator's license to an applicant, the applicant may appeal to the cabinet.

(2) If ***the cabinet refuses to issue a certificate of verification to an applicant, or if*** any person is aggrieved by any final order of the cabinet relating to the denial, revocation, suspension, or cancellation of an operator's license or motorcycle

operator's license other than orders of revocation or suspension when the facts render revocation or suspension mandatory, he ***or she*** may file a petition for judicial review in the Circuit Court of the county in which he resides, or in the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 7. The following KRS section is repealed:

186.5315 Posting of notice about 1994 increases in fees of circuit clerks.

HB 596, AN ACT relating to covered wooden bridges and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.400 is amended to read as follows:

(1) Administrative control of covered wooden bridges designated as state shrines shall be shared by the Transportation Cabinet, the Department of Parks, ***the Kentucky Heritage Council,*** and the authorities created under KRS 176.410.

(2) The Transportation Cabinet shall maintain all covered wooden bridges in the Commonwealth which are on public roads and open to vehicular traffic. The cabinet shall maintain the bridges for safety and for historical and aesthetic beauty. The cabinet shall prepare estimates of the cost of maintaining covered wooden bridges which are on public roads and open to vehicular traffic and shall identify and include the total of these estimates in its biennial budget request.

(3) The cabinet may delegate its responsibility for maintenance of covered bridges located on roads maintained by a county to the local government responsible for such roads. Delegation of responsibility for maintenance of covered bridges to a local government shall require periodic inspection by the cabinet.

(4) Nothing in this section shall prevent an appropriate unit of government from closing a covered wooden bridge to vehicular traffic.

(5) The Department of Parks shall be responsible for all covered wooden bridges located in the Commonwealth which are on public property and no longer open to vehicular traffic. The department shall maintain these bridges in sound structural condition and for historical and aesthetic beauty. The department shall prepare estimates of the cost of maintaining covered wooden bridges for which it has a responsibility and shall identify and include the total of these estimates in its biennial budget request.

(6) When an appropriation is made to a covered wooden bridge authority created under the provisions of KRS 176.410, the Department ***of Parks*** shall transfer the obligation of maintenance for the bridges designated in the appropriation to that authority.

(7) An authority may retransfer the right of possession or title and the obligation of maintenance of covered bridges under its jurisdiction to the Department of Parks.

(8) The Heritage Division ***of the Kentucky Heritage Council*** may determine that an authority is inactive or unable to discharge its responsibilities and may transfer the right of title or possession to covered bridges under the jurisdiction of the authority to the Department of Parks. The division shall give notice of such an action to the authority and the Department of Parks.

(9) (a) Prior to administering a project that involves the preservation, restoration, or maintenance of a covered wooden bridge, the administering entity shall:

1. Consider all recommendations submitted pursuant to Section 2 of this Act by a covered wooden bridge authority pertaining to any bridge involved in the project;

2. Consult with the covered wooden bridge authority dedicated to the preservation, restoration, and maintenance of any bridge involved in the project, if such an authority exists; and

3. Hold at least one (1) public hearing within the county in which the bridge is located, with due notice given pursuant to KRS Chapter 424. The public hearing shall be held no later than sixty (60) days prior to the date the project is commenced or contracted, whichever is earlier.

(b) The requirements of paragraph (a) of this subsection shall not apply to any emergency maintenance project that involves a covered wooden bridge if the project cost is less than fifty thousand dollars ($50,000).

(10) In addition to the requirements set forth in subsection (9) of this section, any project that involves the preservation, restoration, or maintenance of a covered wooden bridge shall require approval by the Kentucky Heritage Council prior to the date the project is commenced or contracted, whichever is earlier.

Section 2. KRS 176.410 is amended to read as follows:

(1) Except as provided by KRS 176.400, at the request of citizens or organizations of a county or multicounty region, the Heritage Division ***of the Kentucky Heritage Council*** shall certify to the Governor the creation of a county or multicounty covered wooden bridge authority for that county or multicounty region.

(2) ***(a)*** An authority shall consist of ***members appointed as follows:***

1. The Governor shall appoint one (1) member from each participating county, unless the authority has only one (1) participating county, in which case the Governor shall appoint (3) members from the

participating county; and

2. The fiscal court of each participating county shall submit to the Governor a list of three (3) candidates, and the Governor shall appoint one (1) member from each list unless the authority has two (2) or fewer participating counties, in which case the Governor shall appoint two (2) members from each list[~~five (5) members to be appointed by the Governor~~].

(b) The members of an authority shall hold office for terms of four (4) years and until their successors are appointed and qualify except that the terms of office of the members first appointed shall be ***staggered***[~~as follows: two (2) members shall be nominated and appointed for two (2) years, and three (3) members shall be nominated and appointed for four (4) years~~]. An authority may elect by majority voice officers deemed necessary by its members. A majority of the members shall constitute a quorum. An authority shall meet at the call of its chairman, but at least twice during each calendar year.

(3) An authority shall be dedicated to the preservation, restoration, and maintenance of all covered wooden bridges[~~ not open to vehicular traffic~~] in the county or multicounty region for which it is created.

(a) For covered wooden bridges not open to vehicular traffic, the duties and functions of an authority shall be to:

1.[~~(a)~~] Review, recommend, and administer projects and programs to insure the proper preservation, restoration, and maintenance of covered wooden bridges in the county or multicounty region for which it is created.

2.[~~(b)~~] Advise, consult, and cooperate with state, local, and national officials and agencies, and with the Heritage Division ***of the Kentucky Heritage Council*** as provided by KRS 176.400 and 176.410, to accomplish the purposes for which the authority is established.

(b) For covered wooden bridges open to vehicular traffic, the duties and functions of an authority shall be to:

1. Make recommendations to the Transportation Cabinet and local officials on the proper preservation, restoration, and maintenance of covered wooden bridges in the county or multicounty region for which it is created.

2. Advise, consult, and cooperate with state, local, and national officials and agencies to accomplish the purposes for which the authority is established.

(4) An authority may:

(a) Accept grants or other funds or property from any source, public or private;

(b) Enter into such contractual relationships as may be necessary;

(c) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the authority;

(d) Adopt rules and regulations necessary to the performance of its duties and functions.

(5) Members of an authority may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and reasonable expenses incurred in the furtherance of the authority's activities.

(6) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of state agencies.

(7) ***(a) For covered wooden bridges not open to vehicular traffic,*** each authority shall develop a program for the preservation, restoration, and maintenance of ***those*** covered wooden bridges in the county or multicounty region for which it was established. It shall select the bridges to be preserved, restored, or maintained within a biennium and shall prepare estimates of the cost of preservation, restoration, or maintenance within that biennium.

(b)[~~(8)~~] The program developed by an authority shall be submitted to the Heritage Division ***of the Kentucky Heritage Council***. Upon approval by the division, the authority shall submit its program as its biennial budget request.

(c)[~~(9)~~] When an appropriation is made to an authority to fund its program for the preservation, restoration, and maintenance of covered wooden bridges, title to all covered wooden bridges to be preserved, restored, or maintained under its authority shall be transferred to the authority. Preservation, restoration, and maintenance of covered wooden bridges shall comply with the program approved by the ***Heritage Division of the Kentucky Heritage Council***[~~division~~] and shall be administered by the authority. Each authority is authorized to enter into any agreement or contract necessary to implement an approved and funded program.

(8) For covered wooden bridges open to vehicular traffic, each authority shall develop a biennial list of recommendations for the preservation, restoration, and maintenance of those covered wooden bridges in the county or multicounty region for which it was created. This list shall be submitted biennially to the Transportation Cabinet and all fiscal courts within the authority's jurisdiction.

(9)[~~(10)~~] There is established the covered wooden bridge authority for the counties of Bracken, Fleming, Lewis, Mason, and Robertson as a pilot project.

Section 3. The membership of any covered wooden bridge authority in existence on the effective date of this Act shall remain intact, but within 30 days of the effective date of this Act, additional members shall be appointed pursuant to subsection

(2) of Section 2 of this Act. Terms of the initial members added to an existing authority shall be staggered from two to four years to provide continuity.

Section 4. Whereas proper and timely preservation, restoration, and maintenance of the state's covered wooden bridges is critical to preserving Kentucky's cultural heritage and unique beauty, an emergency is declared to exist, and this Act takes effect upon its passage or approval by the Governor or upon its otherwise becoming a law.

HJR 10, A JOINT RESOLUTION naming the 1932 Yancey Mine Disaster Memorial Highway.

We pause in silence listening for the sound of tears echoing over the mountains
crying in anguish over the needless loss of loved ones and remembering the heroes
who were lost in the 1932 Yancey Mine Disaster.

WHEREAS, even though Congress established the Bureau of Mines in 1910, federal inspectors were prohibited from entering and inspecting mines until 1941; and

WHEREAS, the delay in federal inspections could have played a role in the tragedy that played out in Yancey, Kentucky on December 9, 1932; and

WHEREAS, on that fateful day at the Zero Mine in Yancey, Kentucky, twenty-three lives were lost in a major explosion, six of the twenty-three were brothers, and the lives of the many family members, friends, and community were altered forever; and

WHEREAS, coal remains a vital resource in the Commonwealth today, its use produces 96% of the state's electrical power, and the coal industry is the state's largest industrial employer; and

WHEREAS, the 1932 Yancey Mine Disaster stands as a haunting reminder of the fragility of a human life and the need to continually remind all Kentuckians of the immeasurable sacrifices and contributions coal miners have made over many generations;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, albeit posthumously, proclaim the victims of the 1932 Yancey Mine Disaster to have been outstanding citizens and representatives of the Commonwealth.

Section 2. The Transportation Cabinet shall name the segment of Kentucky Route 72 in Harlan County, beginning at the southernmost city limits for the City of Harlan and ending at the junction of Kentucky Route 72 and County Road 1216, the "1932 Yancey Mine Disaster Memorial Highway."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs along the segment of Kentucky Route 72 identified in Section 2 of this Resolution, that read "1932 Yancey Mine Disaster Memorial Highway."

HJR 18, A JOINT RESOLUTION naming the Vietnam Veterans Memorial Highway.

WHEREAS, our gallant troops are currently far from home and loved ones, engaged in freeing a desperate nation from the control of a cruel despot; and

WHEREAS, the freedoms we enjoy daily are the result of previous generations of brave men and women who fought and died in defense of America on battlefields both at home and abroad; and

WHEREAS, every citizen of the United States owes an immeasurable debt of gratitude to the military personnel who readily answer their country's call to arms; and

WHEREAS, even though the issues have varied over the years, America's finest young people boast a proud tradition of active involvement in civic and social issues in addition to their military service; and

WHEREAS, an exemplary representative of serving both country and community is the Vietnam Veterans of America, Chapter 868, located in Manchester, Kentucky; and

WHEREAS, founded in late 1999, the one hundred plus members of Chapter 868 have quickly become an integral part of the Manchester and Clay County communities; and

WHEREAS, Chapter 868 sponsors "Christmas for Kids" where members either take needy children holiday shopping or treat the children to pizza parties where they are given gift certificates to shop on their own; and

WHEREAS, Chapter 868 has established a college scholarship program for two needy children from veteran families; and

WHEREAS, Chapter 868 assists the community with military funerals, participates in parades, and assists veterans with applying for applicable programs and benefits; and

WHEREAS, Chapter 868 hosts an annual community gospel sing jubilee and fish fry; and

WHEREAS, Chapter 868 has adopted 2.3 miles of United States Route 421 in Clay County that they keep litter free under the Adopt-A-Highway program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name United States Route 421 the "Vietnam Veterans Memorial Highway" beginning at the northern city limits of the City of Manchester in Clay County, continuing through Clay and Jackson Counties, and ending at the Rockcastle County line.

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs periodically along United States Route 421 beginning at the northern city limits of the City of Manchester in Clay County, continuing through Clay and Jackson Counties, and ending at the Rockcastle County line that read "Vietnam Veterans Memorial Highway."

Section 3. The Clerk of the House of Representatives is directed to forward a copy of this Resolution upon its enactment to the Vietnam Veterans of America, Chapter 868, P.O. Box 1263, Manchester, KY 40962.

HJR 126, A JOINT RESOLUTION naming the Cpl. Joshua D. Harris Memorial Bridge in Letcher County.

WHEREAS, Joshua Harris, a native of Jenkins, Kentucky, was the son of Charles and Debra Powers Harris; and

WHEREAS, Joshua Harris was a bright, active youngster who loved thrilling hobbies such as motorcycling and snowboarding; and

WHEREAS, Joshua Harris made the conscious decision to serve his country by enlisting in the United States Marine Corps; and

WHEREAS, on January 22, 2004, Cpl. Joshua Harris, who had survived a harrowing tour of duty in Iraq helping that nation begin its path on the road to democracy, was back in the U.S. when he was tragically killed during a training exercise when the helicopter he was riding in crashed at Camp Pendleton, California; and

WHEREAS, the tragic passing of Cpl. Joshua Harris serves as a reminder to us all that military service is fraught with risks, whether on the battlefield or during training; and

WHEREAS, the late Cpl. Harris, and all members of the Armed Forces who constantly place themselves in harm's way every day, serve as defenders of our liberty and deserve our respect, admiration, and gratitude; and

WHEREAS, Cpl. Joshua Harris is mourned by his parents, his sister Chastity, his brother James, and countless other family members and friends; and

WHEREAS, the ultimate sacrifice of Cpl. Joshua Harris is deserving of whatever small tribute the people of the Commonwealth can pay to it;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do posthumously proclaim Cpl. Joshua D. Harris to have been an outstanding representative of the Commonwealth, and join his family and friends in mourning his passing.

Section 2. The Transportation Cabinet is directed to designate the bridge on United States Route 119 over United States Route 23 in Letcher County (mile marker 28.08) the "Cpl. Joshua D. Harris Memorial Bridge."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of the Resolution, erect signs at each end of the bridge identified in Section 2 of this Resolution that read "Cpl. Joshua D. Harris Memorial Bridge."

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Resolution to Charles and Debbie Harris, 6303 Shane Lane, New Port Richey, Florida 34653.

The Committee Substitute to **HJR 126** is as follows:

HJR 126, A JOINT RESOLUTION naming the Cpl. Joshua D. Harris Memorial Bridge in Letcher County.

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WHEREAS, Joshua Harris was a bright, active youngster who loved thrilling hobbies such as motorcycling and snowboarding; and

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Section 2. The Transportation Cabinet is directed to designate the bridge on United States Route 119 over United States Route 23 in Letcher County (mile marker 28.08) the "Cpl. Joshua D. Harris Memorial Bridge."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of the Resolution, erect signs at each end of the bridge identified in Section 2 of this Resolution that read "Cpl. Joshua D. Harris Memorial Bridge."

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Resolution to Charles and Debbie Harris, 6303 Shane Lane, New Port Richey, Florida 34653.

HJR 192, A JOINT RESOLUTION naming the "World War II Veterans Memorial Bridge" in Johnson County.

WHEREAS, more than sixteen million Americans served in the United States Armed Forces during World War II; and

WHEREAS, over 400,000 brave men and women sacrificed their lives on foreign soil during World War II to ensure our freedom; and

WHEREAS, every American who remained at home during World War II worked tirelessly to support the war effort and ensure the safe return of our soldiers; and

WHEREAS, perhaps the major event of the twentieth century, World War II affected a generation in both positive and negative ways and continues to influence life in America today; and

WHEREAS, in national recognition, honor, and memory of the fearless warriors who gave their all in World War II, a World War II memorial is scheduled to be dedicated in Washington, D.C., on Saturday, May 29, 2004; and

WHEREAS, nearly 59 years after the end of World War II those veterans are departing this world at far too rapid a pace; and

WHEREAS, it is only fitting and proper for the Commonwealth to pay homage to these heroes;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name bridge number B00069 in Johnson County located on United States Route 23 and the junction of the Licking Fork, CSX Railroad, and Kentucky Route 825 as the "World War II Veterans Memorial Bridge."

Section 2. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each approach of the bridge identified in Section 1 of this Resolution that read "World War II Veterans Memorial Bridge."

HCR 194, A CONCURRENT RESOLUTION urging the United States Congress to amend provisions of the Motor Carrier Safety Improvement Act before the act is implemented in 2005.

WHEREAS, in 1999 the 106th Congress enacted Public Law 106-159, known as the Motor Carrier Safety Improvement Act (MCSIA), with a delayed effective date of 2005; and

WHEREAS, the purpose behind MCSIA was to improve the administration of motor carrier safety programs and to reduce the number and severity of accidents involving commercial motor vehicles; and

WHEREAS, the intent of MCSIA cannot be questioned; however, since the bill was enacted and states have had the opportunity to review and understand the full ramifications of its provisions, serious questions and objections have arisen over several portions; and

WHEREAS, as evidence of the magnitude of objections to MCSIA, as of February 2004, only three states have amended their laws to comply with MCSIA during the past five years; and

WHEREAS, in keeping with other federal mandates, MCSIA contains draconian financial penalties for all jurisdictions that do not amend their state laws by 2005 to implement MCSIA; and

WHEREAS, for Kentucky the financial penalty is estimated to be a loss of $25 million in highway construction dollars the first year alone, not including the unknown financial costs the Transportation Cabinet will incur to administer MCSIA; and

WHEREAS, while Kentucky fully supports efforts to improve motor carrier safety, the state has serious reservations about penalizing commercial drivers based upon outdated violations that occurred before they possessed a commercial driver's license;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The United States Congress is strongly urged to amend provisions of the Motor Carrier Safety Improvement Act before the its implementation date in 2005 to address the concerns of the states that have not adopted the provisions of MCSIA.

Section 2. If MCSIA cannot be amended prior to the 2005 implementation date, Congress is urged to delay the implementation date for a time uncertain until all the concerns states have with MCSIA can be addressed.

Section 3. A copy of this Resolution is to be transmitted to each member of the Kentucky Congressional Delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, and Mary Peters, Administrator, Federal Highway Administration.

The Committee on Agriculture and Small Business reported **HB 140**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Amendment No. 1 to **HB 140** is as follows:

HB 140, On page 2, line 3, after "***take***" by deleting "***all***".

The Committee on Agriculture and Small Business reported **HCR 187**, with Committee Substitute attached thereto, and **HCR 203** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 187, A CONCURRENT RESOLUTION urging the Kentucky Agricultural Development Board to lower the proportion of burley tobacco-county applicants' contribution requirement when applying for state funds.

WHEREAS, the loss of income from the sale of tobacco has been acutely felt in most counties in Kentucky; and

WHEREAS, there is a continual uncertainty in Kentucky about the future of the burley tobacco program; and

WHEREAS, the economy of many of these tobacco-producing counties has lagged behind the state and nation in recent years; and

WHEREAS, many tobacco growers, farm families, and others are being urged to develop a vision of a new rural Kentucky that includes diversification and entrepreneurial endeavors; and

WHEREAS, there are many sound and worthwhile farm diversification and product marketing projects in these counties that deserve funding assistance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly urges the Kentucky Agricultural Development Board to lower the 50% match requirement for applicants requesting state funds who are from counties whose 1997 tobacco income as a percentage of 2001 total personal income is 4% or greater.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Kentucky Agricultural Development Board and to the Kentucky Commissioner of Agriculture.

The Committee Substitute to **HCR 187** is as follows:

HCR 187, A CONCURRENT RESOLUTION urging the Kentucky Agricultural Development Board to lower the proportion of burley tobacco-county applicants' contribution requirement when applying for state funds.

WHEREAS, the loss of income from the sale of tobacco has been acutely felt in most counties in Kentucky; and

WHEREAS, there is a continual uncertainty in Kentucky about the future of the burley tobacco program; and

WHEREAS, the economy of many of these tobacco-producing counties has lagged behind the state and nation in recent years; and

WHEREAS, many tobacco growers, farm families, and others are being urged to develop a vision of a new rural Kentucky that includes diversification and entrepreneurial endeavors; and

WHEREAS, there are many sound and worthwhile farm diversification and product marketing projects in these counties that deserve funding assistance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly urges the Kentucky Agricultural Development Board to continue its efforts to find creative ways to use other methods and lending sources, including the Agricultural Finance Corporation, to reduce the applicant loan match requirement in funding requests, particularly those from counties whose 1997 tobacco income as a percentage of 2001 total personal income is 4% or greater.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Kentucky Agricultural Development Board and to the Kentucky Commissioner of Agriculture.

HCR 203, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of tobacco production or the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, such losses would cause failure of many farms and businesses, decreases in land values, the default of loans, and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems that threaten the tobacco industry and the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping to resolve these problems; and

WHEREAS, the tobacco industry and tobacco farmers remain in jeopardy because of threats to the program, increased imports, labor shortages, marginal prices, possible increases in excise taxes, and other problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized through November 30, 2004, to help resolve the problems facing the tobacco industry and the tobacco program. The task force shall report its findings and any recommendations to be included in the 2004 interim reports to be submitted to the Legislative Research Commission and the 2005 General Assembly.

Section 2. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Economic Development reported **HB 609**, with Committee Substitute attached thereto, **HB 614**, and **HB 648** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 609, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.202 is amended to read as follows:

(1) The duties of the Commission on Small Business Advocacy shall include, but not be limited to:

(a) Coordinate and promote the awareness of the Federal Small Business Regulatory Enforcement Fairness Act of 1996, and its subsequent amendments within the small business community of the Commonwealth;

(b) Develop a process by which the small business community is made aware of state legislation and administrative regulations affecting it, both prior to its enactment and during its implementation;

(c) Advocate for the small business sectors when state legislation and administrative regulations are overly burdensome, costly, or harmful to the success and growth of the sector;~~[and]~~

(d) Collect information and research those public policies and government practices which are helpful or detrimental to the success and growth of the small business community***; and***

(e) Review administrative regulations that may impact small business. The commission may seek input from other agencies, organizations, or interested parties. In acting as an advocate for small business, the commission may submit a written report to the promulgating administrative body to be considered as comments received during the public comment period required by subsection (1)(c) of Section 5 of this Act. The report may specify the commission's findings regarding the administrative regulation, including an identification and estimate of the number of small businesses subject to the administrative regulation, the projected reporting, recordkeeping, and other administrative costs required for compliance with the administrative regulation, and any suggestions the

commission has for reducing the regulatory burden on small businesses through the use of tiering or exemptions, in accordance with Section 4 of this Act. A copy of the report shall be filed with the regulations compiler of the Legislative Research Commission.

(2) By September 1 of each year, the commission shall submit a report to the Governor and the Interim Joint Committee on Economic Development and Tourism detailing its work in the prior fiscal year, including, but not limited to the following:

(a) Activities and achievements of the commission in accomplishing its purposes and duties;

(b) Findings of the commission related to its collection of information and research on public policies and government practices affecting small businesses, including specific legislation and administrative regulations that are helpful or detrimental to the success of small businesses; and

(c) Specific recommendations of ways state government could better promote the economic development efforts of small businesses in the Commonwealth.

Section 2. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;

(b) Declaratory rulings;

(c) Intradepartmental memoranda not in conflict with KRS 13A.130;

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) ***Small businesses;***

(e) Industry;

(f)[~~(e)~~] Consumers of a product or service; or

(g)[~~(f)~~] Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation" means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) ***"Small business" means a business entity, including its affiliates, that:***

(a) Is independently owned and operated; and

(b) 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or

2. Has gross annual sales of less than six million dollars ($6,000,000).

(15) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(16)[~~(15)~~] "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee; and

(17)[~~(16)~~] "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 3. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including, but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That an administrative regulation is deficient because it:

1. Is wrongfully promulgated;

2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;

4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;

5. Fails to use tiering when tiering is applicable;

6. Is in excess of the administrative body's authority;[~~ or~~]

7. ***Appears to impose an unreasonable burden on small business; or***

8. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute; or

(c) That an administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 4. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities***,*** ***including small business,*** and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, ***shall***[~~must~~] be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies shall use any number of tiers that will solve most efficiently and effectively the problem the administrative regulation addresses. A written statement shall be submitted to the Legislative Research Commission explaining why tiering was or was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables;

(h) Reduce***,***~~[or]~~ modify***, or waive fines or other penalties***~~[fine schedules]~~ for noncompliance; and

(i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

~~[(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.]~~

Section 5. KRS 13A.270 is amended to read as follows:

(1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (5) of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.

(c) The administrative body shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday.

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;

(d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and

(e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.

(b) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be mailed:

1. To every person who has filed this form with the administrative body;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

(4) ***(a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the executive director of the Commission on Small Business Advocacy within one (1) working day after the date the***

administrative regulation is filed with the Commission.

(b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with subsection (1)(e) of Section 1 of this Act and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.

(5) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(6)[~~(5)~~] The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and

(b) No written comments have been received by the close of the last day of the public comment period.

(7)[~~(6)~~] (a) Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.

(8)[~~(7)~~] Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection ***(5)***[~~(4)~~] of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(9)[~~(8)~~] Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 6. KRS 13A.280 is amended to read as follows:

(1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and during the comment period***, including any report filed by the Commission on Small Business Advocacy in accordance with subsection (1)(e) of Section 1 of this Act and subsection (4) of Section 5 of this Act***.

(2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day following the last day of the comment period the statement of consideration relating to the administrative regulation.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.

(3) (a) If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section.

(b) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.

(b) If the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The first page of the statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;

(d) If a hearing has been held or written comments received, the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;
2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and
3. The name and title of the representative of the promulgating administrative body;

(e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f) Following the summary and comments, the promulgating administrative body shall:

1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and
2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d);

(g) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(h) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 7. This Act shall be known as the Small Business Regulatory Fairness Act of 2004.

The Committee Substitute to **HB 609** is as follows:

HB 609, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.202 is amended to read as follows:

(1) The duties of the Commission on Small Business Advocacy shall include, but not be limited to:

(a) Coordinate and promote the awareness of the Federal Small Business Regulatory Enforcement Fairness Act of 1996, and its subsequent amendments within the small business community of the Commonwealth;

(b) Develop a process by which the small business community is made aware of state legislation and administrative regulations affecting it, both prior to its enactment and during its implementation;

(c) Advocate for the small business sectors when state legislation and administrative regulations are overly burdensome, costly, or harmful to the success and growth of the sector;[~~ and~~]

(d) Collect information and research those public policies and government practices which are helpful or detrimental to the success and growth of the small business community***; and***

(e) Review administrative regulations that may impact small business. The commission may seek input from other agencies, organizations, or interested parties. In acting as an advocate for small business, the commission may submit a written report to the promulgating administrative body to be considered as comments received during the public comment period required by subsection (1)(c) of Section 5 of this Act. The report may specify the commission's findings regarding the administrative regulation, including an identification and estimate of the number of small businesses subject to the administrative regulation, the projected reporting, recordkeeping, and

other administrative costs required for compliance with the administrative regulation, and any suggestions the commission has for reducing the regulatory burden on small businesses through the use of tiering or exemptions, in accordance with Section 4 of this Act. A copy of the report shall be filed with the regulations compiler of the Legislative Research Commission.

(2) By September 1 of each year, the commission shall submit a report to the Governor and the Interim Joint Committee on Economic Development and Tourism detailing its work in the prior fiscal year, including, but not limited to the following:

(a) Activities and achievements of the commission in accomplishing its purposes and duties;

(b) Findings of the commission related to its collection of information and research on public policies and government practices affecting small businesses, including specific legislation and administrative regulations that are helpful or detrimental to the success of small businesses; and

(c) Specific recommendations of ways state government could better promote the economic development efforts of small businesses in the Commonwealth.

Section 2. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;

(b) Declaratory rulings;

(c) Intradepartmental memoranda not in conflict with KRS 13A.130;

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) ***Small businesses;***

(e) Industry;

(f) Government;

(g)[~~(e)~~]Consumers of a product or service; or

(h)[~~(f)~~] Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) ***"Government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance.***

(13) "Proposed administrative regulation" means an administrative regulation that an administrative body proposes to promulgate;

(14)[~~(13)~~] "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(15)[~~(14)~~] ***"Small business" means a business entity, including its affiliates, that:***

- ***(a) Is independently owned and operated; and***
- ***(b) 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or***
  - ***2. Has gross annual sales of less than six million dollars ($6,000,000).***

(16) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(17)[~~(15)~~] "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee; and

(18)[~~(16)~~] "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 3. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

- (a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including, but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;
- (b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon administrative regulations submitted to it by the Commission;
- (c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and
- (d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

- (a) That an administrative regulation is deficient because it:
  - 1. Is wrongfully promulgated;
  - 2. Appears to be in conflict with an existing statute;
  - 3. Appears to have no statutory authority for its promulgation;
  - 4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
  - 5. Fails to use tiering when tiering is applicable;
  - 6. Is in excess of the administrative body's authority;[~~ or~~]
  - 7. ***Appears to impose an unreasonable burden on government or small business, or both; or***
  - ***8.*** Appears to be deficient in any other manner;
- (b) That an administrative regulation is needed to implement an existing statute; or
- (c) That an administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 4. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities***, including government or small business, or both,*** and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, ***shall***[~~must~~] be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies shall use any number of tiers that will solve most efficiently and effectively the problem the administrative regulation addresses. A written statement shall be submitted to the Legislative Research Commission explaining why tiering was or was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

- (a) Reduce or modify substantive regulatory requirements;
- (b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables;

(h) Reduce***,***[~~ or~~] modify***, or waive fines or other penalties***[~~fine schedules~~] for noncompliance; and

(i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

[~~(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.~~]

Section 5. KRS 13A.270 is amended to read as follows:

(1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (5) of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.

(c) The administrative body shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday.

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;

(d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and

(e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.

(b) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be mailed:

1. To every person who has filed this form with the administrative body;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative

regulation.

(4) ***(a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the executive director of the Commission on Small Business Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.***

(b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with subsection (1)(e) of Section 1 of this Act and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.

(5) (a) If a government may be impacted by an administrative regulation, the administrative body shall send, by e-mail if the government has an e-mail address, a copy of the administrative regulation as filed and all attachments required by KRS 13A.230(1) to each government in the state within one (1) working day after the date the administrative regulation is filed with the Commission. If the government does not have an e-mail address, the material shall not be sent.

(b) The e-mail shall include a request from the administrative body that the government review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under subsection (1)(e) of Section 1 of this Act, and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report or comments shall be filed with the regulations compiler.

(6) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(7)[~~(5)~~] The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and

(b) No written comments have been received by the close of the last day of the public comment period.

(8)[~~(6)~~] (a) Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.

(9)[~~(7)~~] Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection ***(6)***[~~(4)~~] of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(10)[~~(8)~~] Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 6. KRS 13A.280 is amended to read as follows:

(1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and during the comment period***, including any report filed by the Commission on Small Business Advocacy in accordance with subsection (1)(e) of Section 1 of this Act and subsection (4) of Section 5 of this Act, or by a government in accordance with subsection (1)(e) of Section 1 of this Act and subsection (5) of Section 5 of this Act***.

(2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day following the last day of the comment period the statement of consideration relating to the administrative regulation.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.

(3) (a) If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section.

(b) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.

(b) If the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The first page of the statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;

(d) If a hearing has been held or written comments received, the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f) Following the summary and comments, the promulgating administrative body shall:

1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and

2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d);

(g) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(h) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 7. This Act shall be known as the Small Business and Government Regulatory Fairness Act of 2004.

HB 614, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.6851 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

(1) Any governing body establishing a development area may impose an assessment on each person employed in the development area, as a condition of employment, whose job was newly created as a result of a project, and as determined

by the policies and procedures established by the governing body, subject to the conditions in subsection (6) of this section, and who is subject to the state tax imposed by KRS 141.020. A job shall not be deemed to be newly created under this section if it occurs due to the relocation of jobs from another location within the Commonwealth.

(2) Subject to KRS 65.6853, the total assessment levied by all the governing bodies within the development area shall not exceed an amount equal to two percent (2%) of the gross wages of the employee.

(3) Each person so assessed shall be entitled to credits against local occupational license fees, if a local occupational license fee is then in existence and not otherwise totally used as a credit against assessments imposed under Subchapter 23, 24, or 26 of KRS Chapter 154, equal to the assessment withheld from wages during the calendar year so long as the amount does not exceed the amount of the assessment itself.

(4) Subsequent to the establishment of a development area by one (1) governing body, no other governing body may levy an assessment in any portion of the development area that would cause the total assessment in any portion of the development area to exceed two percent (2%) of the gross wages of the employee, subject to KRS 65.6853. If more than one (1) governing body jointly establishes a development area, the governing bodies that establish the development area shall agree upon the amount of the assessment and the manner by which the assessment is to be prorated among the governing bodies establishing the development area.

(5) Any assessment of employees in connection with their employment at a project levied under this section shall permanently lapse on the date:

(a) Any bonds issued in connection with acquiring or developing the infrastructure of a development area, in accordance with KRS 65.680 to 65.699, are retired; or

(b) Any loans or other financing incurred in connection with the establishment of a development area mature or are prepaid in full.

(6) For the purposes of this section:

(a) The development area shall be a***:***

1. Previously undeveloped tract of land; ***or***

2. Tract of land which, for at least fifty (50) years, has had a primary land use other than raising crops or livestock, and:

a. Which, for at least two (2) years, has remained empty, vacant, or abandoned; or

b. Upon which the principal structures are at least fifty (50) years old.

(b) No more than five hundred (500) acres may be approved in any twelve (12) month period in any county; and

(c) Acceptable developments shall be limited to projects as defined in KRS 65.680.

(7) Any agency that has established a development area under KRS 65.680 to 65.699 prior to July 15, 2002, unless otherwise approved by the agency, shall continue to operate under the provisions of KRS 65.680 to 65.699 as determined by the policies and procedures established by the agency prior to July 15, 2002.

Section 2. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by ***a city, county, or***[~~an~~] agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by ***a city, county, or***[~~an~~] agency at the commencement date.

(3) ***For the purposes of this section, property shall be deemed to be under the control of a city, county, or agency if the city, county or agency owns or controls the rights-of-way providing the means of access to the property and exercises regulatory control over land uses on the property.***

(4) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(5)[~~(4)~~] Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(6)[~~(5)~~] The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(7)[~~(6)~~] The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(8)[~~(7)~~] (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Revenue Cabinet for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(9)[~~(8)~~] The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(10)[~~(9)~~] The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

HB 648, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context clearly indicates otherwise:

(1) "Agreement" means any agreement made pursuant to Section 6 of this Act between the authority and an approved company with respect to an economic development project in which inducements are granted.

(2) "Approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with an economic development project under the provisions of Sections 1 to 9 of this Act and that designates the eligible company as an approved company;

(3) "Approved company" means an eligible company that initiates an economic development project in the Commonwealth whose application has been approved by the authority.

(4) "Approved expense" means:

(a) For an approved company that establishes a new facility or expands an existing facility:

1. The cost of building and construction materials, upon which Kentucky sales and use tax as defined in KRS Chapter 139 is paid, in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

2. The cost of equipment used in research and development, at the economic development project, upon which Kentucky sales and use tax as defined in KRS Chapter 139 is paid.

(b) Approved expenses may only be incurred during the life of the project, not to exceed eighteen (18) months from the date an eligible company is designated an approved company by the authority. Provided, however, that the authority may grant a twelve (12) month extension of the project for good cause shown. Approved expenses shall not include any expenditure made before the date the company is approved by the authority.

(5) "Authority" means the Kentucky Economic Development Finance Authority;

(6) "Economic development project" or "project" means a new or expanded service or technology, manufacturing, or tourism attraction activity, conducted by the approved company at a specific site in the Commonwealth, including the acquisition of real property by an approved company and the construction, installation, and rehabilitation of fixtures, and facilities, necessary or desirable for improvement of real estate owned, used, or occupied by the approved company, excluding the cost of labor. The minimum investment for an economic development project located in a preference zone shall be one hundred thousand dollars ($100,000) and for a project not located in a preference zone five hundred thousand dollars ($500,000).

(7) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity that is primarily engaged in manufacturing, service technology, operating or developing a tourism attraction. Any company whose primary purpose is retail sales shall not be an eligible company;

(8) "Equipment used in research and development" means:

(a) "Equipment" means assets used in the operation of a business which are subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code. The term "equipment" shall not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies; and

(b) "Research and development" means experimental or laboratory activity that has as its ultimate goals the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products. "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys, or other market research, advertising or promotional activities, or research in connection with literary, historical or similar projects.

(9) "Inducements" means the sales and use tax refund allowed to an approved company for approved expenses under the provisions of Sections 1 to 9 of this Act;

(10) "Life of the project" or "project life" means the eighteen (18) month period beginning the date the company is designated as an approved company by the authority and the twelve (12) month extension if the extension is granted by

the authority.

(11) (a) "Manufacturing" means to make, assemble. process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities.

(b) "Manufacturing" does not include any activity involving the performance of work classified by the divisions, including successor divisions, of mining in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication.

(12) "Preference zone" or "zone" means the geographic area that was designated as an enterprise zone pursuant to KRS 154.45-050, and that was in existence as an enterprise zone on December 31, 2003. No enterprise zone may be expanded after the effective date of this Act. Enterprise zone designations that are scheduled to expire, pursuant to 154.45-050(2), shall expire as scheduled. All preference zones shall expire on December 31, 2007.

(13) "Sales and use tax" means those taxes paid to the Commonwealth for the purchase of goods pursuant to KRS Chapter 139.

(14) (a) "Service and technology" means either:

1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service and technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state.

(15) "Tourism attraction" shall have the meaning assigned in Section 11 of this Act.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish guidelines and standards for approving eligible companies pursuant to Sections 1 to 9 of this Act.

(2) Relevant standards for approval of eligible companies and economic development projects shall include but are not limited to creditworthiness of the eligible company, employment opportunities for Kentucky residents, including wages to be paid, whether the project is located in a preference zone, whether the eligible company is participating in other incentive programs pursuant to KRS Chapter 154 for the project, and the likelihood that the project will be an economic success. An eligible company with an economic development project located in a preference zone shall be given priority for approval.

(3) An eligible company shall certify to the authority, by written application provided by the authority, the following:

(a) That the company is making a minimum investment of one hundred thousand dollars ($100,000) in the project, if the project is located in a preference zone or five hundred thousand dollars ($500,000) in the project, if the project is not located in a zone;

(b) A description of the project;

(c) An estimate of the expenses for which the company shall seek approval;

(d) Supporting documentation, as requested by the authority; and

(e) Any other information requested by the authority.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The total tax refund incentive available for commitment by the authority for all projects, for each fiscal year, shall not exceed twenty million dollars ($20,000,000) for building and construction materials and five million dollars ($5,000,000) for equipment used in research and development.

(2) If an eligible company proposes to locate or expand its business in the state, the eligible company may submit an application to the authority to become an approved company pursuant to Sections 1 to 9 of this Act.

(3) When the application of an eligible company is complete, it shall be brought before the authority for approval.

(4) The eligible company shall only be designated an approved company for the specific, discrete project contained in its application.

(5) A company may transfer its designation as an approved company for the project to another company upon prior

notification to the authority in a manner prescribed by the authority. The company to which approval is transferred shall be eligible for the incentives to which the transferring company was entitled on the entire project.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of KRS 139.770 to the contrary, an approved company under the terms of Sections 1 to 9 of this Act may receive a tax refund of sales and use tax paid on the cost of building and construction materials that are permanently incorporated as an improvement to real property to an economic development project and equipment used in research and development at an economic development project. The approved company shall have no obligation to refund or otherwise return any amount of the sales and use tax refund to the persons from whom the tax was originally collected or paid to the state.

(2) An approved company shall only apply for a refund:

(a) Of sales and use tax paid for construction materials and building fixtures and for equipment used in research and development purchased during the life of the economic development project not to exceed the amount specified in the approved company's agreement, as defined in Section 1 of this Act, and

(b) Within sixty (60) days after the completion of the economic development project or the expiration of the life of the project, whichever occurs first.

(3) An approved company shall execute information-sharing agreements prescribed by the Revenue Cabinet with contractors, vendors, and other related parties to verify construction material and building fixture costs and equipment used in research and development, including applicable taxes, for the economic development project.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section. The Revenue Cabinet may examine any refund within four (4) years from the date the refund application is received. An overpayment resulting from the examination shall be repaid to the State Treasury. Any amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

(5) The Revenue Cabinet may promulgate administrative regulations, pursuant to the provisions of KRS Chapter 13A, and shall require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 9 of this Act.

SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An eligible company may apply to be designated an approved company under the provisions of Sections 1 to 9 of this Act by the authority on and after October 1, 2004.

(2) No approvals under Sections 1 to 9 of this Act shall be effective before January 1, 2005.

SECTION 6. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Before any approved company is granted inducements as provided in Sections 1 to 9 of this Act, an agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provision of the agreement, including the amount of approved expenses and the maximum inducement, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer that eighteen (18) months from the date of approval of the company. The agreement may be extended by the authority an additional twelve (12) months for good cause shown by approval of the authority and notation upon the face of the agreement. The authority shall notify the Revenue Cabinet of any such extension.

(2) The agreement shall include:

(a) A description of the project for which the inducements have been authorized;

(b) A description of the authorized expenses;

(c) The total inducements allowed for the project, not to exceed the amount negotiated by the authority and the company; and

(d) A provision that the inducements are not assignable without written notice to the authority before any assignment is made.

SECTION 7. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The contents of a company's filings under Sections 1 to 9 of this Act shall be treated by the authority and the Revenue Cabinet as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

SECTION 8. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall annually submit a complete and detailed report of the use of the incentives and participation of approved companies under Sections 1 to 9 of this Act within one hundred twenty (120) days after the end of each fiscal year to the Legislative Research Commission and to the Governor.

SECTION 9. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall be known as the Kentucky Enterprise Initiative Act.

Section 10. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the Revenue Cabinet, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) "City" means any city, consolidated local government, or urban-county;

(6) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "County" means any county, consolidated local government, or charter county;

(9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;

(10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(11) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more projects are proposed to be located, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of KRS 65.6971 or 65.6972;

(12) "Economic development authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(13) "Enterprise Zone" means an area ***that had been*** designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of ***subchapter 45 of KRS Chapter 154 before January 1, 2004***[~~KRS 154.45-010 to 154.45-110~~];

(14) "Governing body" means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under KRS 65.686, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or

(b) That agreement, including with respect to a development area satisfying the requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17) "Increments" means the amount of revenues received by any taxing district, determined by subtracting the amount of old

revenues from the amount of new revenues in the calendar year with respect to a development area and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of KRS 65.6971 and the construction or improvement, within a development area meeting the requirements of KRS 65.6971, of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of KRS 65.6971;

(19) "Issuer" means a city, county, or an agency issuing increment bonds;

(20) "New revenues" means the amount of revenues received with respect to a development area in any calendar year after the activation date for a development area:

(a) Established under KRS 65.686, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes as may be determined by the Revenue Cabinet to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue;

(21) "Old revenues" means the amount of revenues received with respect to a development area:

(a) Established under KRS 65.686, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or

(b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of KRS 65.6972, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the Revenue Cabinet to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the Revenue Cabinet for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(23) "Primary project entity" means the entity responsible for control, ownership, and operation of the project within a

development area satisfying the requirements of KRS 65.6972 which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of KRS 65.6972, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under KRS 65.686, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;

2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;

3. Being in or related to a development area; and

4. Having an estimated life or period of usefulness of one (1) year or more, including but not limited to real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(b) Satisfying the requirements of KRS 65.6971; an economic development project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a tourism attraction project defined under KRS 148.851; or

(c) Satisfying the requirements of KRS 65.6972, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber-optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction, or educational uses; or

4. Any combination thereof;

(25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of KRS 65.6972;

(26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

(28) "Termination date" means the date on which a development area shall cease to exist, which for purposes of a development area:

(a) Established under KRS 65.686, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or

(b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or

(c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection;

(29) "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and

(30) "Project costs" mean the total private and public capital costs of a project.

Section 11. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection***, excluding costs subject to refund under Sections 2, 3, 4, 5, and 6 of this Act***;

(4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;

(9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;

(11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12) "Theme restaurant destination attraction" means a restaurant facility that has:

(a) Construction, equipment, and furnishing costs in excess of five million dollars ($5,000,000);

(b) Seating capacity of four hundred fifty (450) guests, of which an annual average of not less than fifty percent (50%) shall be guests who are not residents of the Commonwealth;

(c) Business plans that indicate that the attraction shall be in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;

(d) Business plans that indicate that the attraction shall offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public, and shall offer a unique dining and cultural experience that is not available elsewhere in the Commonwealth; and

(e) Food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts;

(13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, a theme restaurant destination attraction, or an entertainment destination center. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless:

1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational

property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency;

2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council; or

3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars ($10,000,000).

(b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a theme restaurant destination attraction, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(14) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 12. KRS 154.12-224 is amended to read as follows:

(1) There is created in the Cabinet for Economic Development the Department of Financial Incentives. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall coordinate all financial assistance, tax credit, and related programs available for business and industry.

(2) The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

(a) The Grant Programs Division, which shall supervise and manage the Economic Development Bond Program, as set forth in KRS 154.12-100, and the Local Government Economic Development Program, as set forth in KRS 42.4588;

(b) The Direct Loan Programs Division, which shall supervise and manage the Direct Loan Program of the Kentucky Economic Development Finance Authority, as set forth in 307 KAR 1:020, and the Small Business Loans Branch;

(c) The Tax Incentive Programs Division, which shall supervise and manage the Kentucky Industrial Development Act Program, as set forth in KRS 154.28-010 et seq., the Kentucky Jobs Development Act Program, as set forth in KRS 154.24-010 et seq., the Kentucky Industrial Revitalization Act Program, as set forth in KRS 154.26-010 et seq., the Kentucky Rural Economic Development Act Program, as set forth in KRS 154.22-010 et seq., and the Kentucky ***Economic Initiative***[~~Enterprise Zone~~] Program, as set forth in ***Sections 1 to 9 of this Act***[~~KRS 154.45-001 et seq., which shall be attached to the division for administrative purposes~~]; and

(d) The Program Servicing Division, which shall perform auditing, monitoring, and compliance functions for the Grant Programs Division, the Direct Loan Programs Division, and the Tax Incentive Programs Division within the Department of Financial Incentives.

(3) The department shall also include the following entities:

(a) The Kentucky investment fund, established by KRS 154.20-250 to 154.20-284, which shall be attached to the department for administrative purposes and staff support; and

(b) The Bluegrass State Skills Corporation, established by KRS 154.12-204 to 154.12-208, which shall be attached to the department.

Section 13. KRS 154.45-010 is amended to read as follows:

As used in ***subchapter 45 of KRS Chapter 154***[~~KRS 154.45-020 to 154.45-110~~], unless the context otherwise requires:

(1) "Authority" means the Enterprise Zone Authority of Kentucky;

(2) "Employee" means a person who works twenty (20) hours or more per week and is employed by a business located in an enterprise zone and includes a qualified seasonal employee. For purposes of determining whether a qualified business maintains the percentage of targeted workforce employees required by subsection (8) of this section for the entire time it is certified as a qualified business, a qualified seasonal employee shall be deemed to be employed for the entire calendar year;

(3) "Enterprise zone" means an area designated by the authority to be eligible for the benefits of ***the Enterprise Zone Program***[~~KRS 154.45-020 to 154.45-110~~];

(4) "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed;

(5) "Existing business" means a person, corporation, or other entity engaged in the active conduct of a trade or business at a location within the enterprise zone prior to the date the authority designated the area as an enterprise zone;

(6) "Local government" means a city, county, urban-county government, or charter county government;

(7) "New business" means a person, corporation, or other entity who was not engaged in the active conduct of a trade or business in the enterprise zone prior to the date the authority designated the area as an enterprise zone, and who becomes engaged in the active conduct of a trade or business within the enterprise zone after the date the authority designated the area as an enterprise zone;

(8) "Qualified business" means an existing business or new business that has been certified by the authority to have at least fifty percent (50%) of its employees performing substantially all of their services within an enterprise zone and meeting one (1) of the following criteria:

(a) With a new business employing at least twenty-five percent (25%) of the business's employees from the targeted workforce; or

(b) With an existing business creating new activity within the enterprise zone of not less than a twenty percent (20%) increase in the number of employees or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business. Businesses that are certified based upon an increase in employees shall employ at least twenty-five percent (25%) of the new employees from the targeted workforce;

(9) "Qualified employee" means an employee of a qualified business;

(10) "Qualified seasonal employee" means a seasonal employee employed by a seasonal business for at least sixty (60) days during the calendar year;

(11) "Seasonal business" means a business with respect to which seasonal employees constitute at least eighty percent (80%) of the total number of employees of the business during the calendar year. For purposes of this definition, a person shall be treated as an employee only if the person is employed by the business for at least sixty (60) days during the calendar year;

(12) "Seasonal employee" means a person who is employed by a qualified business during certain seasons or during part of the calendar year; and

(13) "Targeted workforce" means Kentucky residents:

(a) Who reside within an enterprise zone; or

(b) Who have been unemployed for at least ninety (90) days or who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with a qualified business.

(c) For the purpose of this subsection, "Kentucky resident" means a person who has resided in the Commonwealth for at least ninety (90) days.

Section 14. KRS 154.45-050 is amended to read as follows:

(1) In addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988. In deciding which areas should be designated as enterprise zones the authority shall give preference to:

(a) Local governments that have documented the greatest commitment to the goals ***of the Enterprise Zone Program***[~~established pursuant to KRS 154.45-001~~];

(b) Areas with the highest levels of poverty, unemployment, and general distress; and

(c) Areas that have the greatest support from the local government seeking designation, the community, residents, local business, and private organizations, taking into account the resources available to the local government.

(2) Designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority shall remove the designation of an area as an enterprise zone if the area no longer meets the criteria for ***average rate of unemployment, population density, chronic abandonment or demolition of commercial or residential structures, and pervasive proverty***[~~designation as set out in KRS 154.45-020 to 154.45-110~~] or by administrative ***regulations***[~~regulation~~] adopted by the authority [~~pursuant to KRS 154.45-020 to 154.45-110~~]. The authority shall establish by administrative regulation a procedure for revocation of the designation of an enterprise zone. The authority shall ensure that local governments shall be notified in writing of the authority's intent and reasons for considering revocation of the designation. The authority shall establish a reasonable time frame within which the local government may correct the problems cited by the authority to avoid revocation of the enterprise zone designation.

(4) A local government that has had an enterprise zone designation revoked shall be prohibited from applying for future enterprise zone designations for at least five (5) years. The authority may, by administrative regulation, extend the time frame that a local government is prohibited from participating in the enterprise zone program.

(5) If the authority revokes the designation of an enterprise zone, it shall immediately begin reviewing the applications of local

governments seeking an enterprise zone and designate a new area as an enterprise zone as soon as possible.

(6) If the authority removes the designation of an area as an enterprise zone pursuant to this section, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to KRS 154.45-090 until December 31 of the twentieth year from the date of the original designation of the area as an enterprise zone.

Section 15. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of ***the Enterprise Zone Program***[~~KRS 154.45-020 to 154.45-110~~], there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for Families and Children or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for Families and Children, shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 16. KRS 154.45-070 is amended to read as follows:

The authority shall administer the provisions of ***the Enterprise Zone Program***[~~KRS 154.45-020 to 154.45-110~~], and shall:

(1) Establish by administrative regulation a process to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program;

(2) Initiate contact and fully cooperate with the Revenue Cabinet in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues;

(3) Report to the General Assembly no later than October 1 annually regarding:

(a) The authority's method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as an enterprise zone pursuant to the provisions of KRS 154.45-050.

(5) Prohibit the certification of businesses in an enterprise zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as an enterprise zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's enterprise zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the enterprise zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and neighborhood enterprise association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

Section 17. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(h) The low income credit permitted by KRS 141.066;

(i) The household and dependent care credit permitted by KRS 141.067;

(j) The coal incentive credit permitted under KRS 141.0405; and

(k) The research facilities credit permitted under KRS 141.395.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f)[~~The enterprise zone credit permitted by KRS 154.45-090;~~

~~(g)~~] The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(g)[~~(h)~~] The coal incentive credit permitted under KRS 141.0405; and

(h)[~~(i)~~] The research facilities credit permitted under KRS 141.395.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 18. The following KRS sections are repealed:

154.45-001 Purpose of Enterprise Zone Program.

154.45-020 Application for designation as enterprise zone -- Interlocal governmental agreement -- Application to amend boundaries of existing zone -- Joint applications.

154.45-030 Boundary changes effective upon written approval of authority -- Contents of application -- Requirements for authority's approval.

154.45-040 Areas eligible for designation as enterprise zone.

154.45-080 Master business license.

154.45-100 Neighborhood enterprise association corporations -- Establishment -- Certification -- Land owned by state and local governments to be leased to corporation -- Tax exemption.

Section 19. The following KRS sections are repealed:

154.45-010 Definitions for KRS 154.45-020 to 154.45-110.

154.45-050 Number of enterprise zones limited -- Preferred areas -- Effect of revocation -- Retention of certification and eligibility for tax exemption after removal of designation.

154.45-060 Enterprise Zone Authority of Kentucky -- Membership -- Terms -- Meetings -- Compensation -- Staff.

154.45-070 Duties of authority.

154.45-090 Tax advantages, credits, and exemptions for qualified businesses.

154.45-110 Duties of Revenue Cabinet -- Report to General Assembly on fiscal impact of Enterprise Zone Program.

154.45-120 Cabinet for Workforce Development to verify employment information of qualified businesses.

Section 20. Sections 17 and 19 of this Act take effect on December 31, 2007.

Calendar

HB 490, 524, SB 118, HCR 172, HR 174, SB 124, HB 507, 508, 605, 650, 558, 559, 560, 597, 598, 708, 48, 222, 374, 547, 550, 563, and **SB 14** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 222, 374, 490, 508, 547, 558, 559, 560, 563, 605, 650, 708, HCR 172, HR 174, HB 537,** and **357** have been posted for passage in the Regular Orders of the Day for March 5, 2004.

Orders of the Day

HB 291, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 291**. Agreed.

Representative Geveden moved that **HB 291**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 78, Nays 10**. (See March 4, 2004, roll call on **HB 291** - Appendix.)

HB 291, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 291**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434, with Committee Substitutes attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute No. 2 to **HB 434**. Agreed.

Representative Rasche moved that **HB 434**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 4, 2004, roll call on **HB 434** - Appendix.)

HB 434, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 434**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 45, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the House Committee Substitute to **SB 45**. Agreed.

Representative Jenkins moved that **SB 45**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 4, 2004, roll call on **SB 45** - Appendix.)

SB 45, by way of Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **SB 45**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 139 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HR 139** be adopted.

On the roll call the vote was: **Yeas 87, Nays 0**. (See March 4, 2004, roll call on **HR 139** - Appendix.)

HR 139 was adopted.

Representative Napier moved that the vote by which **HR 139** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 495, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 495**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 495**. Agreed.

Representative J. Lee moved that **HB 495**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 56, Nays 35**. (See March 4, 2004, roll call on **HB 495** - Appendix.)

HB 495, by way of Committee Substitute, as amended, was passed.

Representative J. Lee moved the adoption of Committee Amendment No. 1 Title to **HB 495**. Agreed.

Representative J. Lee moved that the vote by which **HB 495**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 342, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 342**. Agreed.

Representative Burch moved that **HB 342**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 3**. (See March 4, 2004, roll call on **HB 342** - Appendix.)

HB 342, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 342**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 535, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 535**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 535**. Agreed.

Representative Barrows moved that **HB 535**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 4, 2004, roll call on **HB 535** - Appendix.)

HB 535, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 535**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 172, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute No. 3 to **HB 172**. Agreed.

Representative Collins moved that **HB 172**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 85, Nays 7**. (See March 4, 2004, roll call on **HB 172** - Appendix.)

HB 172, by way of Committee Substitute No 3, was passed

Representative Collins moved the adoption of Floor Amendment No. 3 Title to **HB 172**. Agreed.

Representative Collins moved that the vote by which **HB 172**, by way of Committee Substitute No. 3, as amended, was passed, be reconsidered and said motion be placed on the table. Agreed.

HB 461, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 461**. Agreed.

Representative Cherry moved that **HB 461**, by way of Committee Substitute, be passed.

Representative Coleman moved the adoption of Floor Amendment No. 2 to **HB 461**. Agreed.

On the roll call to adopt Floor Amendment No. 2 the vote was: **Yeas 46, Nays 44**. (See March 4, 2004, roll call on **HB 461** - Appendix.)

Floor Amendment No. 2 on **HB 461** was adopted.

Representative Cherry moved that **HB 461**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 4, 2004, roll call on **HB 461** - Appendix.)

HB 461, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 461**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 120 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 120** be adopted.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 4, 2004, roll call on **HCR 120** - Appendix.)

HCR 120 was adopted.

Representative Adkins moved that the vote by which **HCR 120** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 200** was delivered to the Senate and signed by the President. Delivered to the Governor on March 4, 2004, at 3:40 p.m.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to introduce and act on Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 226, by Representative Adkins: A RESOLUTION honoring Mary Jean Arrowood and adjourning the House of Representatives in her memory.

HR 227, by Representative Adkins: A RESOLUTION honoring the Facilities Security Branch Officers of the Kentucky State Police.

Representative Adkins moved the adoption of the following **HR 226**:

HR 226, A RESOLUTION honoring Mary Jean Arrowood and adjourning the House of Representatives in her memory.

WHEREAS, Mary Jean Arrowood was born on August 28, 1938; and

WHEREAS, Mary Jean Arrowood was an honored resident of the Commonwealth of Kentucky; and

WHEREAS, Mary Jean Arrowood served the children, teachers, and citizens of the Commonwealth of Kentucky as president of the Kentucky Parent Teacher Association with distinction during the formative years of the Kentucky Education Reform Act from 1991 until 1993; and

WHEREAS, Mary Jean Arrowood's tenure as president of the Kentucky Parent Teacher Association was marked by the purchase of the Consumer Lane Property in Frankfort, giving the Kentucky Parent Teacher Association a new home; and

WHEREAS, Mary Jean Arrowood was recognized by the Kentucky School Boards Association for her service and contributions to public education, was made an honorary member of the Kentucky Association of School Administrators, and was the first Kentucky Parent Teacher Association member to be appointed to serve on the Appalachian Education Laboratory; and

WHEREAS, Mary Jean Arrowood was the loving wife of Jack Arrowood and loving mother of Marsha Cordle; and

WHEREAS, Mary Jean Arrowood passed away on March 2, 2004;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby extends its sincerest condolences to the family and friends of Mary Jean Arrowood for her loss and affirms that her contributions to the youth, teachers, and citizens of the Commonwealth through her tireless service to the Kentucky Parent Teacher Association are truly remarkable and significant.

Section 2. When the House of Representative adjourns this day, it does so in fond remembrance of Mary Jean Arrowood.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Jack Arrowood, 110 Pine Crest Road, Ashland, Kentucky 41101 and to Marsha Cordle, 545 Holly Hill Drive, Lexington, Kentucky 40603.

There being no objection, **HR 226** was adopted.

Representative Adkins moved the adoption of the following **HR 227**:

HR 227, A RESOLUTION honoring the Facilities Security Branch Officers of the Kentucky State Police.

WHEREAS, the dark events of September 11, 2001, still resonate to this day reminding each of us of the potential that exists within mankind to harm mankind; and

WHEREAS, as a reaction to those events the Kentucky State Police increased its presence in the Capitol and the Capitol Annex to protect the legislators, staff, and citizens within those buildings; and

WHEREAS, these members of the Facilities Security Branch of the Kentucky State Police man their positions in the Capitol and the Capitol Annex, as well as other state facilities in Frankfort, 24 hours a day throughout the entirety of the year; and

WHEREAS, these members of the Facilities Security Branch uphold their duty in the finest manner enabling the legislators, staff, citizens, and guests of the Commonwealth of Kentucky to enter the facilities to conduct the business of the Commonwealth in a safe and secure environment;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby convey its thanks and gratitude to the members of the Facilities Security Branch of the Kentucky State Police, especially those who serve in the Capitol and the Capitol Annex, for their service to the Legislature, staff, and the public entering into these buildings, and affirms that these individuals execute their duty tirelessly and with the utmost dedication.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Captain Steve Wright, Facilities Security Commander, Kentucky State Police Post 12, 1250 Louisville Road, Frankfort, Kentucky 40601 and to Lieutenant Governor Stephen B. Pence, Acting Commissioner, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky 40601.

There being no objection, **HR 227** was adopted.

Senate Message

Announcing passage of **SB 143, 179, 183, 184, 186, 187, 188, 195, 224,** and **SJR 83**. (3:55 p.m.)

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 225, by Representative Geveden: A RESOLUTION urging the United States Congress to direct the construction of Interstate 66 through the Purchase Area of Western Kentucky.

HR 228, by Representative Buckingham: A RESOLUTION requesting the Secretary of the Commerce Cabinet to continue to explore, develop, and promote the use of coal bed methane gas.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 644, 665, SB 111, HB 645, HJR 214, HB 653, SB 115**

Local Government: **HB 584, 586, 583, 619, 669, 697, 703, HCR 198**

Labor and Industry: **SB 34, 122**

Banking and Insurance: **SB 135, 177, HB 530, 567, 534, 568, 545, 582, 607, 642, 702**

State Government: **HB 135, 611, 621, 623, 626, 683, HJR 207, HCR 210, 215**

Health and Welfare: **HB 646**

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that **HB 629** be reassigned to the Committee on Local Government. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 291, 434, HR 139,** and **SB 45**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that his vote be changed from "yea" to "nay" on **HB 495**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "nay" on **HB 427**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **HB 495**. Agreed.

Representative Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Belcher moved that she be recorded as voting "yea" on **SB 45**. Agreed.

Representative Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Belcher moved that she be recorded as voting "nay" on **HB 291**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **SB 45**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 291**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that his vote be changed from "yea" to "nay" on **HB 485**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 172** and **535**. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 519**, by Representative Barrows:

HB 519, On page 6, line 16, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 17, line 9, by deleting "*18*" and inserting "*17*" in lieu thereof;

On page 25, line 19, by deleting Section 9 in its entirety and renumbering the remaining sections;

On page 27, line 26, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 28, line 18, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 30, line 14, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 30, lines 17 and 18, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 53, line 7, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 54, line 3, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 57, line 8, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 62, line 13, by deleting "*19*" and inserting "*18*" in lieu thereof;

On page 63, line 1, by deleting "*19*" and inserting "*18*" in lieu thereof;

On page 64, line 2, by deleting "*27*" and inserting "*26*" in lieu thereof;

On page 71, lines 8 and 9, by removing the strikethroughs and brackets from the words "~~[from the State Treasurer's office]~~";

On page 71, line 15, by removing the strikethroughs and brackets from the words "~~[issued by the State Treasurer]~~";

On page 73, line 26, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 74, lines 11 and 12, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 74, line 24, by deleting the word "*system*" and removing the strikethroughs and brackets from the words "~~[State Treasurer]~~";

On page 89, lines 2 through 8, by removing the beginning bracket and strikethroughs;

On page 89, line 9, by removing the strikethroughs on "~~(2)]~~" and the closing bracket;

On page 90, line 20, by deleting "*16*" and inserting "*15*" in lieu thereof; and

On page 92, line 11, by deleting "*16*" and inserting "*15*" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 227**, by Representative Palumbo:

HB 227, On page 1, line 10, after "*(19)*" by inserting "*, and except for mandated benefits for diabetes as provided in KRS 304.17A-148,*".

House Floor Amendment No. 1 to **SB 14**, by Representative Nunn:

SB 14, On page 1, line 3, after "are" by inserting "*prescribed or*"; and

On page 1, line 9, after "Every" by inserting "*prescriber or*"; and

On page 1, line 9, after "*other*" by inserting "*prescriber or*"; and

On page 1, line 11, after "Pharmacy" by inserting "*or other board that licenses a health care professional permitted to dispense Schedules II, III, IV, and V controlled substances*"; and

On page 1, line 18, after "is" by inserting "*prescribed or*"; and

On page 1, line 21, after "Drug" by inserting "*prescribed or*"; and

On page 1, line 22, after "of" by inserting "*prescribing or*"; and

On page 1, line 23, after "Quantity" by inserting "*prescribed or*"; and

On page 1, line 23, after "*;*" by inserting "*and*"; and

On page 1, by deleting lines 24 and 25 and inserting the following in lieu thereof:

"(e) Prescriber *or dispenser, as appropriate to the person reporting the data*[~~;~~

~~(f) Dispenser~~]."; and

On page 2, line 4, by deleting "*Dispensers*" and inserting "*Prescribers and dispensers*" in lieu thereof; and

On page 2, line 6, before "*dispenser*" by inserting "*prescriber or*"; and

On page 4, line 7, after "a" by inserting "*prescriber or*"; and

On page 6, line 7, after "The" by inserting "*Kentucky Board of Medical Licensure, other boards that license health care professionals to prescribe controlled substances as identified in subsection (3) of Section 1 of this Act, and the*"; and

On page 6, line 7, by deleting "its" and inserting "*their*[~~its~~]" in lieu thereof; and

On page 6, line 9, after "Services" by inserting "*, Kentucky Board of Medical Licensure, other boards that license health care professionals to prescribe controlled substances as identified in subsection (3) of Section 1 of this Act,*"; and

On page 6, line 10, after "a" by inserting "*prescriber or the custodian of records for that prescriber or a*"; and

On page 6, line 11, after "records" by inserting "*as appropriate for the cabinet or the board*"; and

On page 7, line 24, after "*Licensure*" by inserting "*, other boards that license health care professionals to prescribe controlled substances as identified in subsection (3) of Section 1 of this Act,*".

Floor Amendment No. 2 to the Committee Substitute to **HB 227**, by Representative Miller:

HB 227, On page 1, line 10, after "*benefits*" by inserting "*specified for mammography screening under KRS 304.17-316, 304.17A-133, 304.18-098, 304.32-1591, and 304.38-1935, for breast cancer coverage under KRS 304.17-3165, 304.17A-135, 304.18-0985, 304.32-1595, and 304.38-1936, and as*".

House Floor Amendment No. 2 to **SB 14**, by Representative Nunn:

SB 14, On page 3, line 23, after "*investigation;*" by deleting "*and*";

On page 4, line 1, after "*section*" by inserting:

"*; and*

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(8) The cabinet may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care provider";

On page 4, line 2, by deleting "*(8)*" and inserting "*(9)*" in lieu thereof;

On page 4, line 6, by deleting "*(9)*" and inserting "*(10)*" in lieu thereof;

On page 4, line 6, after "record", by inserting "*, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B*";

On page 4, line 7, by deleting "*(10)*" and inserting "*(11)*" in lieu thereof;

On page 4, line 9, by deleting "*(11)*" and inserting "*(12)*" in lieu thereof;

On page 4, line 10, after "(6)", by deleting "*or (7)*" and inserting "*(7), or (8)*" in lieu thereof;

On page 4, line 13, by deleting "*(12)*" and inserting "*(13)*" in lieu thereof:

On page 4, line 24, by deleting "*(13)*" and inserting "*(14)*" in lieu thereof;

On page 4, line 26, after "subsection" by deleting "*(12)*" in inserting "*(13)*" in lieu thereof;

On page 4, line 27, by deleting "*(14)*" and inserting "*(15)*" in lieu thereof;

On page 5, line 4, by deleting "*(15)*" and inserting "*(16)*" in lieu thereof;

On page 6, line 5, after "investigators,", by bracketing and striking through "and";

On page 6, line 6, after "evidence" by inserting "*, and to use data obtained under subsection (7) of Section 2 of this Act in any administrative proceeding before the cabinet*"; and

On page 11, after line 6, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The department may restrict a recipient to obtaining Medicaid services from designated providers, including but not limited to a designated pharmacy or primary care provider, if the recipient:

(a) Has been identified by the department as using Medicaid services at a frequency or in an amount that is not medically necessary;

(b) Has been convicted of unlawfully distributing a controlled substance; or

(c) Is under investigation for Medicaid fraud or abuse or inappropriate utilization or overutilization of Medicaid services.

(2) Subsection (1) of this section shall not apply to emergency care or services provided upon referral of a designated provider.

(3) Prior to restricting a recipient to a designated provider, the department shall provide prior notice to the recipient, assure that the recipient has reasonable access to Medicaid services of adequate quality, and provide the opportunity for a hearing in accordance with KRS Chapter 13B.

(4) The secretary of the Cabinet for Health Services shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing utilization guidelines that shall be used to identify overutilization or inappropriate utilization.

(5) Any restriction applied under subsection (1) of this section shall continue for a minimum of twelve (12) months. Thereafter, the department shall determine yearly if the restriction shall be continued.

Section 6. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:

1. Phenylketonuria;
2. Hyperphenylalaninemia;
3. Tyrosinemia (types I, II, and III);

4. Maple syrup urine disease;
5. A-ketoacid dehydrogenase deficiency;
6. Isovaleryl-CoA dehydrogenase deficiency;
7. 3-methylcrotonyl-CoA carboxylase deficiency;
8. 3-methylglutaconyl-CoA hydratase deficiency;
9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
10. B-ketothiolase deficiency;
11. Homocystinuria;
12. Glutaric aciduria (types I and II);
13. Lysinuric protein intolerance;
14. Non-ketotic hyperglycinemia;
15. Propionic acidemia;
16. Gyrate atrophy;
17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
18. Carbamoyl phosphate synthetase deficiency;
19. Ornithine carbamoyl transferase deficiency;
20. Citrullinemia;
21. Arginosuccinic aciduria;
22. Methylmalonic acidemia; and
23. Argininemia;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900;~~[and]~~

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900***; and***

(j) Inpatient and outpatient substance abuse treatment.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.".

House Floor Amendment No. 2 Title to **SB 45**, by Representative Nunn:

SB 45, By amending the title to read "AN ACT relating to employment.".

House Floor Amendment No. 1 to the House Committee Substitute to **SB 45**, by Representative Nunn:

SB 45, On page 7 after line 12, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that:

(a) A significant portion of the population of Kentucky receives federal or state benefits for disabling conditions;

(b) Current state programs and policies create disincentives for persons with disabilities to become employed, to maintain employment, or to further their employment goals; and

(c) It is advantageous to economic development of the Commonwealth and in the best interests of its citizens to have programs and policies that support employment.

(2) It is the intent of the General Assembly that all state agencies work with citizens to identify and remove barriers to employment for persons with disabilities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Upon written notice from a bona fide entity to the Legislative Research Commission and to the cabinet of the availability of funds, other than state general funds, for costs associated with the policy group, the cabinet shall convene a policy group to develop a program to allow individuals with disabilities to purchase or maintain Medicaid coverage to support obtaining or maintaining employment. The program shall be known as the Medicaid Buy-In program.

(2) (a) The policy group shall include representatives from the following stakeholders or disability advocates:

1. The Statewide Independent Living Council;

2. The Arc of Kentucky;

3. The Kentucky Consumer Advocate Network;

4. The Kentucky Disabilities Coalition;

5. The Brain Injury Association of Kentucky; and

6. The Business Leadership Network of the University of Kentucky.

(b) The policy group shall include at least four (4) individuals with disabilities, appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) individuals submitted by July 15, 2004, by any consumer advocacy organization operating within Kentucky. Individuals appointed under this paragraph shall receive reimbursement for expenses related to the policy group meetings in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

(c) The policy group shall include representatives of the following state government entities:

1. The Department for Medicaid Services;

2. The Department for Mental Health and Mental Retardation Services;

3. The Vocational Rehabilitation Department and the Department of the Blind of the Workforce Development Cabinet;

4. The Transportation Cabinet;

5. The Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

6. The Commission on the Deaf and Hard of Hearing of the Education, Arts and Humanities Cabinet

7. The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses; and

8. The Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities.

(3) The policy group shall select two (2) members to serve as co-chairs, at least one (1) of whom shall be a member under subsection (2)(a) or (2)(b) of this section. Staff services for the policy group shall be provided by the Workforce Development Cabinet and the Cabinet for Health Services.

(4) The policy group:

(a) May establish ad hoc groups or committees to assist in meeting the requirements of this section;

(b) Shall conduct its first meeting no later than August 15, 2004;

(c) Shall have access to necessary data from any state or local government entity and, when necessary, shall assure compliance with all state and federal laws regarding confidentiality of personal records;

(d) Shall identify financing for the Medicaid Buy-In program and address the availability of funding;

(e) Shall assess cost-effectiveness and economic benefits of a Medicaid Buy-In program; and

(f) Shall make recommendations regarding:

1. Eligibility requirements, including but not limited to age, earned and unearned income limits, assets and resource limits, premiums, and other cost-sharing measures;

2. Access to personal care assistant services through the Kentucky State Medicaid Plan or plan waivers;

3. Coordination with the Ticket to Work program administered by the Social Security Administration; and

4. Policy considerations for the General Assembly.

(5) The cabinet may apply for federal grants to assist in the development of infrastructure necessary to support the Medicaid Buy-In program. If federal funding is received under this section, a portion of the funding shall be designated for operating costs of the policy group. The lack of receipt of federal funds under this section shall not affect the requirements of this section.

(6) All state agencies shall provide assistance to the policy group upon request.

(7) The policy group shall present the Medicaid Buy-In program plan to the Governor, the Legislative Research Commission, and the co-chairs of the Interim Joint Committee on Health & Welfare by November 1, 2004.

(8) The cabinet shall implement a Medicaid Buy-In program based on the recommendations of the policy group by July 1, 2005.".

Floor Amendment No. 2 to **HB 413**, by Representative Riner:

HB 413, On Page 2, line 15, after "*cases*" by inserting and underlining "*, excluding traffic violations,*".

Floor Amendment No. 3 to the Committee Substitute to **HB 227**, by Representative Higdon:

HB 227, On page 1, line 6, after "*except*" by deleting "*for those state*" and inserting in lieu thereof "*the health benefit plan shall include coverage for diabetes as provided in KRS 304.17A-148 and those mandated benefits specified under federal law.*"; and

On page 1, by deleting lines 7 to 10 in their entirety; and

On page 1, after line 10, by inserting:

"*(b) Notwithstanding any other provision of this chapter, mandated benefits excluded from coverage shall not be deemed to include those state mandated health insurance benefits that mandate the payment, indemnification, or reimbursement of providers licensed under KRS Chapter 312 or any other specified health care providers as defined in KRS 304.17A-005(19).*"; and

On page 1, line 11, by deleting "*(b)*" and inserting in lieu thereof "*(c)*"; and

On page 1, line 14, by deleting "*(c)*" and inserting in lieu thereof "*(d)*"; and

On page 1, line 19, by deleting "*upon*" and inserting in lieu thereof "*prior to*"; and

On page 1, line 21, by deleting "*upon*" and inserting in lieu thereof "*prior to*"; and

On page 2, after line 5, by inserting:

"*(4) Any advertisement information, matter, statement, or thing that represents a health benefit plan offered under this section shall contain a statement clearly stating that all state mandated health insurance benefits are not covered by the health benefit plan.*"; and

On page 2, line 6, by deleting "*(4)*" and inserting in lieu thereof "*(5)*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 278, Representative Marzian

HB 342, Representative Crall

HB 489, Representative Westrom

HB 493, Representative Riner

HB 529, Representative Westrom

HB 651, Representative Buckingham

HB 652, Representative Buckingham

HB 653, Representative Embry

HCR 210, Representative Marzian

HCR 213, Representatives Nesler and P. Clark

Announcements

The following meeting was announced:

Majority Caucus - 15 minutes upon adjournment, Room 149

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, March 5, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, March 5, 2004, was adopted by voice vote.

FRIDAY, MARCH 5, 2004

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. C. B. Akins, First Baptist Church, Bracktown, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Bratcher, Hall, Haydon, and Riggs.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 4, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Health and Welfare: **SB 179, 184, 186, 187, 188**

Licensing and Occupations: **SB 143**

Local Government: **SB 195**

Natural Resources and Environment: **SB 224**

Seniors, Military Affairs and Public Safety: **SJR 83**

Transportation: **SB 183, HR 225**

House Floor: **HR 228**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Judiciary: **HB 245**

Calendar

HB 56, 67, 115, 502, 516, 529, 571, 575, 580, 587, 595, HR 189, HB 387, 484, 615, 635, HCR 102, HB 514, 526, 562, 596, HJR 10, 18, 126, 192, HCR 194, 187, 203, HB 609, 614, and **648** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 517, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 517**. Agreed.

Representative Lindsay moved that **HB 517**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86, Nays 1**. (See March 5, 2004, roll call on **HB 517** - Appendix.)

HB 517, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 517**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 262, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 262**. Agreed.

Representative Westrom moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 262**. Agreed.

Representative Westrom moved that **HB 262**, by way of Committee Substitute, as amended, be passed.

Representative Farmer inquired whether a fiscal note is required.

Representative Westrom replied that no fiscal note is required.

On the roll call the vote was: **Yeas 73, Nays 3**. (See March 5, 2004, roll call on **HB 262** - Appendix.)

HB 262, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 262**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 519**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 519**. Agreed.

Representative Barrows moved that **HB 519**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 5, 2004, roll call on **HB 519** - Appendix.)

HB 519, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 519**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 708, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 708**. Agreed.

Representative Barrows moved that **HB 708**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 5, 2004, roll call on **HB 708** - Appendix.)

HB 708, by way of Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 708**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HCR 190** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 5, 2004, roll call on **HCR 190** - Appendix.)

HCR 190 was adopted.

Representative R. Adams moved that the vote by which **HCR 190** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 446, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 446**. Agreed.

Representative Geveden moved that **HB 446**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 73, Nays 18**. (See March 5, 2004, roll call on **HB 446** - Appendix.)

HB 446, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 446**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 63 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 63** be passed.

On the roll call the vote was: **Yeas 56, Nays 31**. (See March 5, 2004, roll call on **HB 63** - Appendix.)

HB 63 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 63** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 551, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of Floor Amendment No. 1 to **HB 551**. Agreed.

Representative Adkins moved that **HB 551**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 5, 2004, roll call on **HB 551** - Appendix.)

HB 551, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 551**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Graham moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 66**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of the Delta Sigma Theta Sorority and welcomes this outstanding public service organization as its members travel to Frankfort, Kentucky, to attend the 2004 "Delta Day at the Capitol." Hailing from many of the sorority's chapters across the Commonwealth, these informed and highly-educated women have joined together on this occasion to glean information about and voice their collective concerns regarding the laws, programs, and practices that affect the health, education, and welfare of all Kentucky citizens, most especially those who are African American. A national public service organization founded at Howard University in Washington, D.C., on January 13, 1913, the Delta Sigma Theta Sorority has consistently brought together educated women in a coordinated effort to provide an extensive array of public services through the Five Point Program Thrust, consisting of Economic Development, Educational Development, International Awareness and Involvement, Physical and Mental Health, and Political Awareness and Involvement. Inasmuch as this distinguished organization is comprised of some of Kentucky's best and brightest who are applauded for their willingness to give of those personal offerings that make a difference in the lives of others, the members of this august body are delighted to join with Representative Paul Bather, Representative Jesse Crenshaw, Representative Derrick W. Graham, Representative Reginald K. Meeks and Representative Arnold Simpson in extending an warm welcome to the members of the Delta Sigma Theta Sorority upon their visit to the Capitol during the 2004 Regular Session of the Kentucky General Assembly and in offering sincere best wishes for their success as they continue to work for the common good. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and four.

Legislative Citation No. 66 was adopted without objection.

Representative Gray moved the adoption of the following **Legislative Citation No. 70**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors those esteemed individuals associated with Kentucky's Western Waterland a non-profit organization composed of members from fifteen western Kentucky counties that represent all facets of the tourism industry from the Mississippi River counties to the Lakes Areas and east to Todd County, as it celebrates its 35th Anniversary of tourism promotion in this beautiful area of Kentucky. Operating a Welcome and Tourist Information Center and providing the Department of Travel with the Visitor's Guide and Map and the Facilities Guide, which they publish annually, this organization has done a stellar job promoting the attractions of the Western Waterland, which include a wealth of exciting activities and events occurring in locations such as Between the Rivers, Paducah, the Purchase Area, Kentucky Lake, Lake Barkley and the Trail of Tears. The members of this august body are honored to join Representative J.R. Gray in applauding all those associated with Kentucky's Western Waterland for the initiative and hard work they have exhibited while contributing to the economic vitality and growth of this distinctive and deeply appreciated area of the Commonwealth and in extending best wishes as this esteemed organization continues its good work. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and four.

Legislative Citation No. 70 was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 67**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of James Harve Smith of Russellville, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Smith Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late Ed Morgan and Lizzie Mae Blick Smith, he is survived by his beloved wife, Margaret Page Smith; son, Mike Smith; granddaughters, Morgan Smith, Heather Stevens and Melissa Stitt Gregory; special cousin, Billy Smith; and, a host of other family members, friends and loved ones. The founder of the annual Schochoh Christmas Parade, this esteemed citizen was a skilled farmer and truck driver; served as the president of the Schochoh Community Center; was a faithful member of the Berea Christian Church; and is remembered on this day for the many and generous contributions he made to his family, his community and this Commonwealth. James Harve Smith will be deeply missed by all those whose lives were touched by his faithful and remarkable presence. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and four.

Legislative Citation No. 67 was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 68**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of James Willard Denning of Russellville, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Denning Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late Roy and Amy Gilliam Denning, he is survived by his beloved wife, Frances Denning; children, Steve Denning and Betsy Holmes; sister, Betty Neal; grandchild, Blake Holmes; and, a host of other family members, friends and loved ones. The co-owner of M&H Cleaners with his father-in-law, the late Hugh Barkley, this esteemed citizen was a retired employee from the Veteran Affairs office; an honorable World War II veteran of the United States Navy who served aboard the USS Intrepid; a former commander and adjutant of American Legion Post 29; a member of the Lions Club of Russellville for over forty years where he also had served as a district governor; a faithful member of the Russellville United Methodist Church; and is remembered on this day for the many and generous contributions he made to his family, his community and this Commonwealth. James Willard Denning will be deeply missed by all those whose lives were touched by his faithful and remarkable presence. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and four.

Legislative Citation No. 68 was adopted without objection.

Representative Ballard moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 229, by Representative Ballard: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Irvin A. Peacock.

Motions, Petitions, and Communications (Continued)

Representative Ballard moved the adoption of the following **HR 229**:

HR 229, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Irvin A. Peacock.

With deepest respect and admiration, we pay homage and tribute to Irvin A. Peacock, and we pause in silent reverence for his soul.

WHEREAS, Irvin A. Peacock was born on January 3, 1910, a native of Florida, and longtime resident of Madisonville, Hopkins County, Kentucky, and he traversed these earthly bounds on February 13, 2004; and

WHEREAS, Irvin A. Peacock was the devoted husband of 49 years to Odie Lee Baker Peacock; he was the loving father of two daughters, Shirley Mae Brown Jackson of Madisonville and Barbara Lois Maddox of Lexington; he was the proud grandfather of two grandchildren, the proud great-grandfather of four great-grandchildren, and the proud great-great-grandfather of three great-great-grandchildren; and he also leaves behind a loving brother, James Kinson Peacock of Sneed, Florida; and

WHEREAS, Irvin A. Peacock served his country with honor and distinction in the United States Army during World War II in the Panama Canal Zone, Germany, and the Pacific; and he ably served during the Korean War; he remained in the United States Army for 21 years, and at the time of his retirement, he held the rank of Master Sergeant; and he was also retired from the United States Postal Service; and

WHEREAS, Irvin A. Peacock was of the Christian faith; and he was a member of American Legion Post 6 and Veterans of Foreign Wars Post 5480; and

WHEREAS, the passing of Irvin A. Peacock has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Irvin A. Peacock, and extends to his family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Irvin A. Peacock.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Debbie Mikaelsson, 701 Crowly Lane, Madisonville, Kentucky 42431.

There being no objection, **HR 229** was adopted.

Representative Stewart moved the adoption of the following **Legislative Citation No. 62**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of John Harry Corey December 3, 1918 ~ February 15, 2004 and respectfully joins with Representative Jim Stewart in paying tribute to the life of this esteemed educator who served for forty-six years in the Knox County School System, serving first as a teacher, then as principal at Fount School, and finally as Director of Pupil Personnel for the Board of Education. An avid gardener, a great Republican, and a man of immense warmth who genuinely loved people, he was the son of the late Gilbert and Otie Hopper Corey, and was also preceded in death by his cherished wife, Opal Corey; sisters, Myrtle Hammons and Geneva Corey; and brothers, Arnold Corey and Grover Corey. He is survived by his beloved children, Helen Gambrel and Ronnie Corey; brother, Bill Corey; grandchildren, Regina Smith, Rhonda Hogan, Casey John Corey, Angela Ledford and April Nichole Gambrel; great-grandchildren, Blake Ledford and Corey Michael Smith; and, a host of other family members, friends and loved ones who mourn his passing. John Harry Corey will be deeply missed by all those whose lives were touched by his countenance. The members of this august body express deepest sympathy to his loving family and friends, all of whom deeply mourn their loss on the passing of this fine Kentucky gentleman. Done in Frankfort, Kentucky, this third day of March, in the year two thousand and four.

Legislative Citation No. 62 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 63**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Reverend John Partin June 18, 1925 ~ February 15, 2004 and respectfully joins with Representative Jim Stewart in paying tribute to the life of this licensed plumber, carpenter, electrician and highly-regarded minister from Artemus, Kentucky. The son of the late Lee and Violet Murphy Partin, he was a devoted member of the Roadside Baptist Church; had served as a preacher in Kettering, Ohio, and in Bell, Knox, Clay, and Harlan Counties in Kentucky for the past fifty-one years; and most recently served as the Director of Missions for the Knox Association of Baptists. Honored and remembered on this day as a beloved husband, father, grandfather, brother, friend and good neighbor, Rev. John Partin will be deeply missed by all those whose lives were touched by his countenance. The members of this august body express deepest sympathy to his loving wife of fifty-five years, Alma Merida Partin; beloved children, Cathy Ann Landrum, Debra Jean Adkins, Zella Kay Ledford, Judy Lynn Bowling, Pamela Gaye Clines, Douglas Keith Partin, Rev. Mark Anthony Partin, John Stephen Partin and Rev. Ricky Darrell Partin; devoted brothers, James Willard Partin and Joseph Columbus Partin; twenty-two cherished grandchildren; and twelve adored great-grandchildren, all of whom still mourn their loss on the passing of this fine Kentucky gentleman. Done in Frankfort, Kentucky, this third day of March, in the year two thousand and four.

Legislative Citation No. 63 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 64**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Harrison R. Davis, Jr. October 29, 1949 ~ February 16, 2004 and respectfully joins with Representative Jim Stewart in paying tribute to the life of this esteemed citizen of Himyar, Kentucky, who worked as a welder with several coal companies. The son of Mary Beatrice Jackson Davis and the late Harrison Davis, he was a devoted member of the Concord Baptist Church and an avid outdoorsman who enjoyed hunting, fishing and riding his ATV on the farm. Honored and remembered on this day as a beloved husband, father, grandfather, brother, friend and good neighbor, Harrison Davis, Jr., will be deeply missed by all those whose lives were touched by his countenance. The members of this august body express deepest sympathy to his mother; loving wife, Sharron Davis; beloved children, Anglea Landrum and Shane Davis; devoted siblings, Allie Sue, Shirley, Lucy Ann, Edward, Ronnie Lee and Jack; cherished grandchildren, Tyler, Emily and Evan; special friend, Rev. Lester Mills; and numerous other family, friends and loved ones, all of whom mourn the loss on the passing of this fine Kentucky gentleman. Done in Frankfort, Kentucky, this third day of March, in the year two thousand and four.

Legislative Citation No. 64 was adopted without objection.

Representative Hoffman moved to withdraw **HB 197**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 230, by Representative Stein: A RESOLUTION adjourning the House of Representatives in honor of Marie Abrams upon being named chairwoman of the Jewish Council for Public Affairs.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources: **SB 37, 222**

Seniors, Military Affairs, and Public Safety: **HB 618, SB 55, 83, HCR 206, 223**

Appropriations and Revenue: **HB 483**

Motions, Petitions, and Communications (Continued)

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 517**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 519**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 517**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 551** and **63**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 291, 495, 342, 535, 172, 461, 517, HR 139,** and **SB 45**. Agreed.

Floor Amendments

Floor Amendment No. 3 to **SB 14**, by Representative Yonts:

SB 14, On page 2, line 5, after "***cabinet***" by inserting the following: "***or the person who is a patient identified in the data***"; and

On page 2, line 12, after "A" by inserting "***Commonwealth's attorney or county attorney, on behalf of***"; and

On page 2, line 15, after "person" by inserting "***. Before requesting data from the cabinet, the Commonwealth's attorney or county attorney shall obtain, from the appropriate law enforcement official designated in this paragraph, a description of the investigation and the information sought from the cabinet and shall make a determination whether a bona fide specific investigation exists. If no determination is made that a bona fide specific investigation exists, the Commonwealth's attorney or county attorney shall not request the data. The law enforcement officer who receives data under this paragraph shall have a continuing duty to provide an update of the bona fide specific investigation to the Commonwealth's attorney or county attorney within twenty-four (24) hours of receipt of a request for the update***"; and

On page 3, line 6, by deleting "***or***"; and

On page 3, line 11, by deleting the "***.***" and inserting the following in lieu thereof:

"***; or***

(h) A person, or an authorized representative of a person, who is a person identified in the system. If no data exists for a person or representative who requests the data, the cabinet shall report in writing to the person or representative that no data exists for that person."; and

On page 3, line 23, after "***investigation***" by inserting "***, and shall be reported to the Commonwealth's attorney or county attorney, as appropriate, who requested the data on behalf of the law enforcement officer no later than the last day of any month that the data was shared***"; and

On page 4, line 1, after "***section***" by inserting "***. A law enforcement officer who receives data or reports under this paragraph shall report the receipt of any data or reports to a Commonwealth's attorney or county attorney in the county of jurisdiction for the law enforcement officer. The law enforcement officer shall provide any other information, requested by the Commonwealth's attorney or county attorney, that is related to the data or reports, or any subsequent investigation, to the Commonwealth's attorney or county attorney***"; and

On page 8, by deleting lines 3 through 5 and inserting the following in lieu thereof:

"***(d) A Commonwealth's attorney or county attorney, on behalf of a law enforcement officer authorized to receive data under Section 1 of this Act, may request trend reports not specifically published pursuant to paragraph (c) of this subsection upon a demonstration of need by a law enforcement officer. A law enforcement officer receiving a trend report under this paragraph shall provide, within twenty-four (24) hours of a request, any information requested by the Commonwealth's attorney or county attorney about any investigation or use of the trend report. A report under this paragraph may be***".

Floor Amendment No. 1 to the Committee Substitute to **HB 484**, by Representative Harmon:

HB 484, On page 1, lines 1 through 18, by removing all language therein; and by inserting the following in lieu thereof:

"Section 1. The Legislative Research Commission shall instruct its staff to consult with the Legislative Ethics Commission to study the issue of whether allowing contributors to legislative campaigns to recoup their campaign contributions upon the legislator's change of party affiliation would present a conflict of interest for General Assembly members, who may be unduly pressured or influenced to vote or refrain from voting on certain issues out of fear that their campaign contributions would be recovered from them. A report shall be prepared and submitted to the General Assembly for consideration at the 2005 Regular Session.

Section 2. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date."

Floor Amendment No. 1 to the Committee Substitute to **HB 490**, by Representative Webb:

HB 490, On page 2, line 2, after the word "***use***", by inserting "***a standard kilowatt-hour meter***" and deleting "***metering that is***"; and

On page 2, line 3, after the word "***meter***", by inserting "***, meters, or distribution upgrades needed***" and deleting "***used***"; and

On page 3, line 9, after the word "***systems***", by inserting "***and interconnecting equipment***".

Floor Amendment No. 1 to the Committee Substitute to **HB 562**, by Representative Weaver:

HB 562, On page 2, line 8, after the word "***clerk***" and before the word "***refer***" delete the word "***shall***" and insert in lieu thereof the word "***may***"; and

On page 2, line 10, delete line 10 in its entirety and insert in lieu thereof the following: "***the clerk determines that the integrity of the documentation presented under this section cannot be verified.***"; and

On page 2, line 11, delete "***presented to the clerk under this subsection.***"; and

On page 13, line 26, after the word "***clerk***" and before the word "***refer***" delete the word "***shall***" and insert in lieu thereof the word "***may***"; and

On page 14, line 1, delete line 1 in its entirety and insert in lieu thereof the following: "***the clerk determines that the integrity of the documentation presented under this section cannot be verified.***"; and

On page 14, line 2, delete "***license or documentation presented to the clerk.***".

Floor Amendment No. 1 to **HB 523**, by Representative Westrom:

HB 523, On page 2, line 5, insert "***was entered into over the Internet and***" before "***involves***"; and

On page 2, line 10, delete "***and***"; and

On page 2, line 13, delete "***.***", and insert in lieu thereof "***; and***"; and

On page 2, after line 13, insert:

"***(d) The agreement or contract is of an amount equal to or less than the statutory limitation for a claim brought in the small claims division of the District Court, as specified in KRS 24A.230.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 650**, by Representative Damron:

HB 650, On page 1, line 4, after "***an***" by inserting "***employer-organized association or***".

Floor Amendment No. 2 to the Committee Substitute to **HB 650**, by Representative Damron:

HB 650, On page 1, by deleting lines 1 to 5 in their entirety and renumbering subsequent sections accordingly; and

On page 43, line 3, by deleting "2" and inserting in lieu thereof "1".

Floor Amendment No. 3 to the Committee Substitute to **HB 650**, by Representative Damron:

HB 650, On page 1, by deleting lines 23 to 25 in their entirety; and

On page 2, by deleting lines 1 to 19 in their entirety and by renumbering subsequent sections accordingly; and

On page 14, by deleting lines 1 to 27 in their entirety; and

On page 15, by deleting lines 1 to 27 in their entirety; and

On page 16, by deleting lines 1 to 8 in their entirety and by renumbering subsequent sections accordingly ; and

On page 20, by deleting all new material on lines 3 and 4.

Floor Amendment No. 1 to **HB 537**, by Representative B. Smith:

HB 537, On page 6, line 6, by placing a closing bracket after "~~appraisal.~~"; and

On page 6, line 7, by removing the strike throughs from "~~(4)~~"; and

On page 6, line 7, before first occurrence of the word "~~Following~~", by inserting:

"***Nothing contained in this section shall affect any person's right to bring a civil action for injunctive relief or damages,*** *including punitive and compensatory damages. Acceptance of the entry fee or the appraisal shall not be construed as a waiver of this right of action.*"; and

On page 6, line 7, by placing an opening bracket before the first occurrence of the word "~~Following~~".

Floor Amendment No. 2 to **HB 537**, by Representative B. Smith:

HB 537, On page 1, line 18, after the word "order" by inserting "*and a plan of action reasonably calculated to result in abatement of the violation, repair of the damage, and restoration of the property, and provides proof of liability insurance and workers' compensation insurance covering any accidents or injuries occurring on the property during the remedial work*"; and

On page 5, line 23, after "*violation*" by inserting "*, provided that the landowner has been provided a plan of action reasonably calculated to result in abatement of the violation, repair of the damage, and restoration of the property, and the permittee or operator provides proof of liability insurance and workers' compensation insurance covering any accidents or injuries occurring on the property during the remedial work*".

Floor Amendment No. 3 to **HB 413**, by Representative Riner:

HB 413, On page 1, line 9 after the word "*of* by deleting the words "*twenty dollars ($20)*" and substituting in lieu thereof "*thirty-four dollars ($34)*"; and

On page 2, line 15 after the word "*of* by deleting the words "*twenty dollars ($20)*" and substituting in lieu thereof "*thirty-four dollars ($34)*".

Floor Amendment No. 3 to the Committee Substitute to **HB 336**, by Representative Damron:

HB 336, On page 1, line 5, following "*animal control officer*" to insert "*or any other person or animal lawfully on the premises*"; and

On page 1, line 11 through page 32, line 5, to delete the same.

Floor Amendment No. 2 to **HB 484**, by Representative Harmon:

HB 484, On page 1, lines 1 through 16, by removing all language therein; and by inserting the following in lieu thereof:

"Section 1. The Legislative Research Commission shall instruct its staff to consult with the Legislative Ethics Commission to study the issue of whether allowing contributors to legislative campaigns to recoup their campaign contributions upon the legislator's change of party affiliation would present a conflict of interest for General Assembly members, who may be unduly pressured or influenced to vote or refrain from voting on certain issues out of fear that their campaign contributions would be recovered from them. A report shall be prepared and submitted to the General Assembly for consideration at the 2005 Regular Session.

Section 2. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date."

Floor Amendment No. 1 to **HB 648**, by Representative Palumbo:

HB 648, On page 4, line 27, by deleting "*establish guidelines and standards*" and inserting in lieu thereof "*promulgate administrative regulations, pursuant to the provisions of KRS Chapter 13A,*"; and

On page 6, line 15, after the word "*on*" by inserting "*approved expenses for*"; and

On page 8, line 21, after the word "*shall*" by deleting "*not be considered*"; and inserting in lieu thereof "*be afforded the confidentiality protections*"; and

On page 8, line 22, by deleting "*public records*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 198, Representative Meeks

HB 262, Representative Riner

Announcements

The following meeting was announced:

Committee on Appropriations and Revenue: 11:00 a.m., Room 149, today

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, March 8, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, March 8, 2004, was adopted by voice vote.

MONDAY, MARCH 8, 2004

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert A. Strode, St. John AME Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Coleman, Gray, Meeks, and Reinhardt.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 5, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 230**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 395**, with Committee Substitute attached thereto, **HB 396**, with Committee Substitute attached thereto, **HB 397, HJR 103, HJR 104,** and **HJR 105** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 395** is as follows:

HB 395, AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

(1) Funds Appropriations: There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year ending June 30,2004, for the fiscal year beginning July 1, 2004, and ending June 30, 2005, and for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

(2) Tobacco Settlement Funds: Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part X, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

A. GENERAL GOVERNMENT

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2004-05	**2005-06**
General Fund	5,950,800	7,385,700
Restricted Funds	1,311,100	-0-
TOTAL	7,261,900	7,385,700

(1) Expenses of Lieutenant Governor: Included in the above General Fund appropriation is $417,500 in fiscal year 2004-2005 and $417,500 in fiscal year 2005-2006 in the Office of the Lieutenant Governor for personnel and operating expenses, including the Lieutenant Governor's expense allowance. Included in the above General Fund appropriation is $18,000 in fiscal year 2004-2005 and $18,000 in fiscal year 2005-2006 for the Governor's expense allowance and $10,000 in fiscal year 2004-2005 and $10,000 in fiscal year 2005-2006 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

(2) Residence of Lieutenant Governor: Notwithstanding KRS 42.037, effective December 8, 2003, the Secretary of the Finance and Administration Cabinet shall expend no state funds for a residence for the Lieutenant Governor, except for expenses necessary to maintain property owned by the Commonwealth. Notwithstanding KRS 42.037, 30 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall expend no state funds for staff or services for the residence of the Lieutenant Governor, other than expenses necessary to maintain property owned by the Commonwealth.

(3) Vehicle for Lieutenant Governor: The Governor shall provide the Lieutenant Governor a vehicle pursuant to KRS 44.045(1).

(4) State Police Services for Lieutenant Governor: The Department of State Police shall not provide security or transportation services to the Lieutenant Governor unless the Commissioner of the Department of State Police makes a determination that specific security measures are warranted or the Governor allocates executive security to the Lieutenant Governor from the current complement of the Kentucky State Police sworn officers assigned directly to the Governor.

(5) Housing Allowance for the Lieutenant Governor: Included in the above General Fund appropriation for the Office of the Governor, Lieutenant Governor's Office, is a housing allowance of up to, but not to exceed, $1,000 monthly. The maximum annual General Fund appropriation of $12,000 in fiscal year 2004-2005 and $12,000 in fiscal year 2005-2006 is included in the above appropriation.

b. Office of State Budget Director

	2004-05	**2005-06**
General Fund	2,285,500	4,323,800
Restricted Funds	1,842,000	-0-
TOTAL	4,127,500	4,323,800

c. State Planning Fund

	2004-05	**2005-06**
General Fund	-0-	-0-

(1) State Planning Fund Repeal: Notwithstanding KRS 48.310, the following KRS sections are repealed:

147.070	State planning functions of Governor's Cabinet.
147.075	State Planning Committee.
147.090	Preparation and coordination of major state improvement projects.
147.100	Miscellaneous projects.
147.110	Use of federal funds and state planning funds.
147.120	Records – Employees – Expenses.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2004-05	**2005-06**
General Fund	8,236,300	11,709,500
Restricted Funds	3,153,100	-0-
TOTAL	11,389,400	11,709,500

2. DEPARTMENT OF PERSONNEL

a. General Operations

	2004-05	**2005-06**
General Fund	4,674,100	9,779,700
Restricted Funds	12,373,600	12,956,900
TOTAL	17,047,700	22,736,600

(1) Monthly Per Employee Health Insurance Benefits Assessment: Notwithstanding KRS 18A.015(2), (3), and (4), the Department of Personnel shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Department of Personnel in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

(2) **Debt Service:** Included in the above General Fund appropriation is $3,562,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act.

(3) **Flexible Benefit Account:** Notwithstanding KRS 18A.225(2)(g), any funds from the calendar year 2004 and calendar year 2005 public employee health insurance program accruing to the Flexible Benefit Account, not otherwise appropriated in fiscal year 2005-2006, and in excess of the amount reflected in Part V of this Act shall be credited to the General Fund Surplus Account.

(4) **Combined Health Insurance Coverage**: In the event that both an employee and his or her spouse are both eligible for an employer contribution toward the purchase of health insurance from a state agency, local school district, or the Kentucky Employees Retirement System, the Commissioner of Personnel shall provide the option for them to combine both employer contributions and purchase a plan and level of coverage they desire under the state health insurance group. The couple shall designate one member as the lead employee member and the employer contribution made on behalf of that lead employee member shall be the same amount as for an employee selecting the same type and level of coverage that does not have a spouse making a combined contribution. The employer contribution for the remaining spouse shall be the same amount as for an employee selecting the single plan with the standard level of coverage.

(5) **State Agencies' Health Insurance Supplemental Funding**: Included in the above General Fund appropriation is $1,470,500 in fiscal year 2004-2005 and $3,014,100 in fiscal year 2005-2006 for State Agencies' Health Insurance Supplemental Funding. The Commissioner of Personnel, in consultation with the State Budget Director, shall determine the amount of funds necessary by budget unit to provide for the health insurance adjustment. The State Agencies' Health Insurance Supplemental Funding shall be supplemented by Restricted Agency Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for the health insurance adjustment. The Commissioner of Personnel, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Agencies' Health Insurance Supplemental Funding to transfer to each affected budget unit, and such funds shall be transferred. The Commissioner of Personnel and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of this provision on a timely basis.

b. Kentucky Public Employees Deferred Compensation Authority

	2004-05	**2005-06**
Restricted Funds	5,133,200	5,648,600

c. Workers' Compensation Benefits And Reserve

	2004-05	**2005-06**
Restricted Funds	24,666,800	27,931,500

(1) **Appropriation Estimates:** The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

d. Health Insurance COLA Account

	2004-05	**2005-06**
General Fund	5,800,300	20,109,800

(1) **Employee Health Insurance COLA Account:** Included in the above General Fund appropriation is $5,800,300 in fiscal year 2004-2005 and $20,109,800 in fiscal year 2005-2006 to establish the Employee Health Insurance Cost-of-Living Adjustment (COLA) Account. These funds shall be distributed to state agencies to provide an Employee Health Insurance COLA as prescribed in Part IV of this Act. Funding is included for the Revenue Department to support this COLA for Property Valuation Administrators (PVA) employees. Any funds not distributed to state agencies from this account in fiscal year 2004-2005 shall not lapse and shall be carried forward in this account to fiscal year 2005-2006.

TOTAL - DEPARTMENT OF PERSONNEL

	2004-05	**2005-06**
General Fund	10,474,400	29,889,500
Restricted Funds	42,173,600	46,537,000
TOTAL	52,588,000	76,426,500

3. DEPARTMENT OF VETERANS' AFFAIRS

	2004-05	**2005-06**
General Fund	15,358,800	15,458,800
Restricted Funds	21,657,000	22,417,000
TOTAL	37,015,800	37,875,800

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2004-2006 fiscal biennium.

(2) **Carry Forward of General Fund Appropriations:** Notwithstanding KRS 45.229, the unexpended balance of the

General Fund appropriation provided to the Eastern Kentucky Veterans' Center, the Western Kentucky Veterans' Center, and the Thompson/Hood Veterans' Center in fiscal year 2003-2004 shall not lapse and shall be carried forward into fiscal year 2004-2005.

(3) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

4. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2004-05	2005-06
General Fund (Tobacco)	39,195,900	33,099,300
General Fund	-0-	1,796,000
Restricted Funds	520,600	515,600
TOTAL	39,716,500	35,410,900

(1) **Tobacco Settlement Funds – Allocations:** Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is up to $1,600,000 in fiscal year 2004-2005 and $1,600,000 in fiscal year 2005-2006 for the University of Kentucky Cooperative Extension Service to support the cost of providing a one-time bonus in each fiscal year for county extension agents in addition to any salary adjustments which may be made. Bonuses provided to county extension agents shall be provided in equal amounts to each county extension agent.

(2) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs directly related to the performance of the duties prescribed in KRS 248.721. Administrative costs shall include only those expenditures that are directly related to the evaluation of needs, development of plans identifying programs in the county in need of agricultural development, and assisting applicants in obtaining money from the Agricultural Development Fund. Expenditures that are not directly attributable to the county council, and expenditures attributable to the operations of the county extension service, are not administrative costs.

(3) **New Economy Initiatives:** The Agricultural Development Board is encouraged to work with the Economic Development Cabinet to provide up to $5,000,000 each year of the biennium to fund the Natural Products Investment Fund.

(4) **Debt Service:** Included in the above General Fund appropriation is $1,796,000 in fiscal year 2005-2006 for new bonds as set forth in Part II of this Act.

5. KENTUCKY INFRASTRUCTURE AUTHORITY

		2004-05	2005-06
General Fund (Tobacco)		-0-	6,000,000
General Fund	-0-	6,296,000	
Restricted Funds		3,726,500	3,714,200
Federal Funds		50,322,000	50,339,000
TOTAL		54,048,500	66,349,200

(1) **Federally Assisted Wastewater Revolving Loan Fund Program:** Included in the above General Fund appropriation is $802,000 in fiscal year 2005-2006 for debt service to support $8,400,000 in bonds to match $42,000,000 in Federal Funds for the Federally Assisted Wastewater Revolving Loan Fund program (Fund A).

(2) **Safe Drinking Water State Revolving Loan Fund Program:** Included in the above General Fund appropriation is $727,000 in fiscal year 2005-2006 for debt service to support $7,600,000 in bonds to match $38,000,000 in Federal Funds for the Safe Drinking Water State Revolving Loan Fund program (Fund F). The Federal Funds for this program are appropriated in the operating budget to comply with the Federal Cash Management Act. The required state matching funds are appropriated as Bond Funds in Part II, Capital Projects Budget, of this Act.

(3) **Water and Sewer Resources Development Fund:** Included in the above General Fund appropriation is $4,767,000 in fiscal year 2005-2006 for debt service to support an additional $50 million in state bonds for the Water and Sewer Resource Development Fund.

(4) **Water and Sewer Resources Development Fund for Tobacco Counties:** Included in the above General Fund (Tobacco) appropriation is $6,000,000 in fiscal year 2005-2006 for debt service for the Water and Sewer Resources Development Fund for Tobacco Counties in Part II, Capital Projects Budget. Future debt service payments for the Water and Sewer Resources Development Fund for Tobacco Counties shall be provided from the General Fund.

6. MILITARY AFFAIRS

	2003-04	2004-05	2005-06
General Fund	-0-	10,572,700	10,997,700
Restricted Funds	5,946,300	55,536,600	59,441,400

Federal Funds	-0-	59,327,000	61,870,500
TOTAL	5,946,300	125,436,300	132,309,600

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $5,946,300 in fiscal year 2003-2004 for additional receipts anticipated in Self-Sustaining/Commercial Operations of the Bluegrass Station as a result of two new Department of Defense contracts.

(2) **Federal Defense Contract:** Included in the above Restricted Funds appropriation is $31,890,600 in fiscal year 2004-2005, and $32,195,100 in fiscal year 2005-2006 for expanded federal defense contract activity at Bluegrass Station and the Central Clothing Distribution Facility.

(3) **Debt Service:** Included in the above General Fund appropriation is $425,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act.

(4) **Kentucky National Guard:** There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(5) **Disaster or Emergency Aid Funds:** There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

7. COMMISSION ON HUMAN RIGHTS

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	1,904,300	1,904,300
Restricted Funds	-0-	5,500	10,500
Federal Funds	58,800	268,400	212,900
TOTAL	58,800	2,178,200	2,127,700

(1) **Current Year Appropriation:** Included in the above Federal Funds appropriation is $58,800 in fiscal year 2003-2004 to provide for contract obligations related to federal civil rights enforcement.

8. COMMISSION ON WOMEN

	2004-05	**2005-06**
General Fund	263,200	263,200
Restricted Funds	22,800	13,000
TOTAL	286,000	276,200

9. LOCAL GOVERNMENT

	2004-05	**2005-06**
General Fund	10,217,200	10,217,200
Restricted Funds	1,072,000	639,600
Federal Funds	52,430,800	52,430,800
TOTAL	63,720,000	63,287,600

(1) **Flood Control Matching Fund Project Review:** The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Environmental and Public Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

(2) **Cemetery Preservation:** In the 2004-2006 biennium, up to $500,000 in funds collected pursuant to KRS 48.005(5) shall be appropriated and transferred to the County Cemetery Fund. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $500,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account. Included within the above Restricted Funds appropriation is $50,000 in fiscal year 2004-2005 for the Fayette County African-American Cemetery #2 and included in the above Restricted Funds appropriation is $50,000 in fiscal year 2004-2005 for the Fayette County Cove Haven Cemetery. Both the African-American Cemetery # 2 and the Cove Haven Cemetery are to match these funds with in-kind support. The in-kind match for both cemeteries shall be certified to the Department for Local Government.

The remaining funds shall be made available for grants for cemetery preservation initiatives, subject to a one-to-one dollar local cash match certified to the Department for Local Government. Grant applications may be made by an agency of the Commonwealth; a city, county, urban-county, charter county, or consolidated local government; a not-for-profit cemetery; a not-for-profit historical or genealogical organization; or a not-for-profit local community or civic group.

(3) Prior Grant Commitments: The Department for Local Government shall honor all written commitments to grant recipients previously made, as long as funds are available.

(4) Interim Reporting: Prior to the distribution of any grant funds, from any program administered by the department, the Commissioner of the Department for Local Government shall report to the Interim Joint Committee on Appropriations and Revenue concerning the procedures, policies, and methods used to determine the amount of grant awards and the recipients.

(5) Renaissance Kentucky Program: The Department for Local Government shall honor all of the Renaissance Kentucky written commitments to local governments that were made by the Kentucky Housing Corporation prior to the Department for Local Government canceling the memorandum of agreement with the Kentucky Housing Corporation and transferring the management of the program. The amount of Bond Funds remaining unspent when the memorandum of agreement was canceled was $7,307,000. Any amount in excess of the commitments previously issued by the Kentucky Housing Corporation shall be retained and issued to additional pending requests, pursuant to the Renaissance Kentucky guidelines.

10. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2004-05	**2005-06**
General Fund	32,451,700	32,157,200

b. Local Government Economic Development Fund

	2004-05	**2005-06**
General Fund	29,857,700	25,290,300

(1) Coal Severance Tax Collections Calculations and Transfers: The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495.

(2) Trover Clinic Grant: Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2004-2005 and $1,000,000 in fiscal year 2005-2006 has been credited to the Trover Clinic Grant within the Department for Local Government.

(3) West Kentucky Corporation and East Kentucky Corporation: Notwithstanding KRS 42.4588, funds totaling $467,000 in fiscal year 2004-2005 and fiscal year 2005-2006 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the West Kentucky Corporation. Notwithstanding KRS 42.4588, funds totaling $467,000 in fiscal year 2004-2005 and fiscal year 2005-2006 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the East Kentucky Corporation.

(4) Department for Regional Development: Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $755,400 in fiscal year 2004-2005 and $768,500 in fiscal year 2005-2006 is allotted as a General Fund appropriation to the Department for Regional Development within the Cabinet for Economic Development.

(5) Kentucky Wood Products Competitiveness Corporation: Notwithstanding KRS 42.4586, no funds shall be transferred to the Secondary Wood Products Development Fund.

(6) Kentucky Workers' Compensation Funding Commission: Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2004-2005 and fiscal year 2005-2006.

(7) High-Tech Construction/Investment Pools: Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $3,625,000 in fiscal year 2004-2005 and $3,500,000 in fiscal year 2005-2006 is allotted as a General Fund appropriation to the Office for the New Economy. These funds will be allocated to the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and (5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Economic Development Cabinet. The projects identified are limited to research and development, commercialization, or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects shall be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

(8) School Facilities Construction Commission: Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 in fiscal year 2004-2005 shall be made only after funds totaling $3,235,500, and in fiscal year 2005-2006 shall be made only after funds totaling $4,617,900, is allotted as a General Fund appropriation to the School Facilities Construction Commission to provide debt service to support previously authorized bonds.

(9) Kentucky Infrastructure Authority: Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $1,906,800 in fiscal year 2005-2006 is allotted as a General Fund appropriation to the Kentucky Infrastructure Authority to provide General Fund debt service to support Bond Funds for the Water and Sewer Resources Development Fund for Coal Producing Counties - Phase II.

Notwithstanding KRS 42.4588, $2,860,200 in fiscal year 2005-2006 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the General Fund to be used by the Kentucky Infrastructure Authority to provide General Fund debt service to support Bond Funds for the Water and Sewer Resources Development Fund for Coal Producing Counties.

(10) **Debt Service:** All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax supported funding program accounts to other accounts of the General Fund.

(11) **Tourism Marketing:** Notwithstanding KRS 42.4588, $2,000,000 in fiscal year 2004-2005 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the Commerce Cabinet's Tourism Marketing program.

(12) **Governor's Early Reading Program:** Notwithstanding KRS 42.4588, funds totaling $2,000,000 in fiscal year 2004-2005 and $2,000,000 in fiscal year 2005-2006 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to fund the Governor's Early Reading Program to the Department of Education.

(13) **Flood Matching Program:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $1,500,000 in fiscal year 2004-2005 and fiscal year 2005-2006 is allotted as a General Fund appropriation to the Department for Local Government.

(14) **Parks Renovation Pool:** Notwithstanding KRS 42.4588, funds totaling $2,384,000 in fiscal year 2005-2006 shall be transferred to the General Fund from the Local Government Economic Development Fund Multi-County Fund to be used by the Commerce Cabinet to provide debt service to support Bond Funds for the Parks Renovation Pool.

(15) **Parameters for County Priorities:** Notwithstanding KRS 42.4592, Local Government Economic Development Fund allocations to each coal-producing county may be used to support non-recurring investments in public health and safety, for economic development, public infrastructure, information technology development and access, and public water and wastewater development with the concurrence of both the respective fiscal court and the Department for Local Government or the Kentucky Infrastructure Authority as appropriate.

c. **Area Development Fund**

	2004-05	**2005-06**
General Fund	809,700	809,700

(1) **Appropriation Limit:** Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2004-05	**2005-06**
General Fund	63,119,100	58,257,200

11. EXECUTIVE BRANCH ETHICS COMMISSION

	2003-04	**2004-05**	**2005-06**
General Fund	25,000	351,500	351,500
Restricted Funds	-0-	2,400	2,400
TOTAL	25,000	353,900	353,900

(1) **Current Year Appropriation:** Included in the above General Fund appropriation is $25,000 in fiscal year 2003-2004 to support current operating expenditures.

12. SECRETARY OF STATE

	2004-05	**2005-06**
General Fund	2,224,000	2,224,000
Restricted Funds	802,900	802,900
TOTAL	3,026,900	3,026,900

(1) **Carry Forward of Restricted Funds:** Notwithstanding KRS 14.140, the above Restricted Funds appropriations shall not lapse and shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

13. BOARD OF ELECTIONS

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	1,556,200	1,566,900

Restricted Funds	-0-	57,100	57,100
Federal Funds	1,669,800	9,000,000	1,000,000
TOTAL	1,669,800	10,613,300	2,624,000

(1) **Current Year Appropriation:** Included in the above Federal Funds appropriation is $1,669,800 in fiscal year 2003-2004 to support increased personnel, operating, and grant expenditures necessary to implement the Help America Vote Act of 2002 (HAVA).

(2) **Carry Forward of General Fund Appropriations:** Notwithstanding KRS 45.229, any General Fund moneys unexpended by the State Board of Elections for the Help America Vote Act (HAVA) at the close of the fiscal year for which the funds were appropriated and otherwise made available shall not lapse but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in Section 1 of the Help America Vote Act. Amounts in excess of those included in the General Fund continuing appropriation for this purpose, not to exceed $1,000,000, shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(3) **Cost of Elections:** Notwithstanding KRS 116.112(7), 116.145, 117.343, and 117.345, any amount, up to $3,434,800 in fiscal year 2004-2005 and $1,479,500 in fiscal year 2005-2006, that the state is required to pay for the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (116.112(7), KRS 116.145, and 117.343) shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay for precinct election expenses under the provisions of KRS 16.112(7), 116.145, 117.343, and 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

14. REGISTRY OF ELECTION FINANCE

	2004-05	**2005-06**
General Fund	1,409,500	1,409,500
Restricted Funds	89,200	118,000
TOTAL	1,498,700	1,527,500

15. ATTORNEY GENERAL

	2004-05	**2005-06**
General Fund	13,526,200	13,526,200
Restricted Funds	7,417,400	7,564,800
Federal Funds	2,382,900	2,449,000
TOTAL	23,326,500	23,540,000

(1) **Deputy and Assistant Deputy Attorneys General Salaries:** Notwithstanding KRS 15.100, the Attorney General may set the salary for the Deputy Attorney General and the salary for the three Assistant Deputy Attorneys General at a rate less than that required in KRS 15.100.

(2) **Expert Witnesses:** In addition to such funds as may be appropriated, the Office of the Attorney General may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095 and 367.150(8). Upon justification of the request, the Finance and Administration Cabinet shall approve up to $275,000 for the 2004-2006 fiscal biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095. Additional expert witness expenses for current and forthcoming legal actions seeking the recovery of funds for the Commonwealth of Kentucky shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the approval of the State Budget Director.

(3) **Annual and Sick Leave Service Credit:** Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

(4) **Child Sexual Abuse License Plate Revenue:** Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victims' license plates. Any revenue received from the sale or renewal of those plates in excess of actual costs shall be transferred to the Child Victims' Trust Fund on an annual basis.

(5) **Legal Services Contracts:** Notwithstanding KRS 12.210, state agencies shall submit any proposal for legal services to the Office of the Attorney General to determine if the legal services can be performed by the Office of the Attorney General and shall only enter into a contract with a non-governmental entity for legal services after the Office of the Attorney General has declined in writing or has failed to respond within 30 days of receipt of the proposal.

(6) County Cemetery Fund: In the 2004-2006 biennium, up to $500,000 in funds collected pursuant to KRS 48.005(5) shall be appropriated and transferred to the County Cemetery Fund. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $500,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account.

(7) Recovery of Public Funds: Notwithstanding KRS 15.020, 15.060, 48.005, and 367.370, or any other provision of law to the contrary, the Office of the Attorney General is authorized to accept in the name of the Commonwealth any settlement resulting from antitrust enforcement or enforcement of the Consumer Protection Act. Such settlement proceeds shall be deemed public funds and shall be deposited into an account maintained by the Finance and Administration Cabinet, except that ten percent of such proceeds, not to exceed $50,000 per settlement, shall be placed in a restricted agency account maintained by the Office of the Attorney General and used to pay costs, fees, or staffing expenses associated with such litigation. The Office of the Attorney General shall provide an annual report regarding the administration of such funds to the Legislative Research Commission.

(8) Administrative Hearings: Notwithstanding KRS 13B.030, in securing hearing officers as necessary to conduct administrative hearings under the jurisdiction of a state agency, as defined in KRS 13B.010(1), the state agency may employ hearing officers, contract with another agency for hearing officers, or contract with private attorneys through personal service contracts only if the Attorney General has first determined that the Office of the Attorney General cannot provide the needed hearing officers to the agency. If the Attorney General determines that the Office of the Attorney General can provide the needed hearing officers to the agency, the agency shall use the hearing officers provided by Office of the Attorney General. The expenses incurred by the Office of the Attorney General in providing the hearing officers to the agency shall be paid as specified in KRS 13B.030(2)(b). The Office of the Attorney General may add additional staff as necessary to meet the obligations of this section.

(9) Resources: The Office of the Attorney General may hire additional staff as necessary for the effective prosecution of legal actions for the recovery of funds by or on behalf of the Commonwealth of Kentucky, for the effective representation of the Commonwealth of Kentucky in defending against direct or collateral challenges to criminal convictions on appeal, and for the provision of assistance and advice to prosecutors in the Commonwealth of Kentucky.

16. UNIFIED PROSECUTORIAL SYSTEM

(1) Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriations in this Act.

a. Commonwealth's Attorneys

	2004-05	**2005-06**
General Fund	27,842,100	28,138,300
Restricted Funds	203,900	204,500
Federal Funds	605,200	633,200
TOTAL	28,651,200	28,976,000

b. County Attorneys

	2004-05	**2005-06**
General Fund	22,979,900	23,514,100
Restricted Funds	4,800	4,800
Federal Funds	391,700	391,700
TOTAL	23,376,400	23,910,600

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2004-05	**2005-06**
General Fund	50,822,000	51,652,400
Restricted Funds	208,700	209,300
Federal Funds	996,900	1,024,900
TOTAL	52,027,600	52,886,600

17. TREASURY

	2004-05	**2005-06**
General Fund	2,047,700	2,067,300
Restricted Funds	778,600	793,300
Road Fund	250,000	250,000
TOTAL	3,076,300	3,110,600

(1) Unclaimed Property Fund: Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2004-2006 fiscal biennium, $778,600 and $793,300 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Department of the Treasury.

18. AGRICULTURE

	2004-05	**2005-06**
General Fund	18,876,500	18,876,500
Restricted Funds	4,855,200	3,305,200
Federal Funds	4,162,000	4,162,000
TOTAL	27,893,700	26,343,700

(1) Breathitt Veterinary Center and Diagnostic Laboratories: Included in the above General Fund appropriation is $478,500 in fiscal year 2004-2005 and $478,500 in fiscal year 2005-2006 for the Breathitt Veterinary Center at Murray State University and $370,000 in fiscal year 2004-2005 and $370,000 in fiscal year 2005-2006 for the University of Kentucky for the diagnostic laboratories.

(2) Mexico Joint Trade Office: Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico.

(3) Enforcement of Tobacco Product Sale Restrictions: Included in the above General Fund appropriation is $260,000 in fiscal year 2004-2005 and $260,000 in fiscal year 2005-2006 to carry out the provisions of KRS 438.335.

(4) Purchase of Agricultural Conservation Easement (PACE) Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

(5) Operations of the Department: The Commissioner of the Department of Agriculture shall not reduce or eliminate any program which is funded in this Act for the purpose of transferring such funds to any new program or existing programs without providing to the Interim Joint Committee on Appropriations and Revenue justification of such activities at least 60 days prior to the proposed action.

(6) Metrology Lab Operating Fees: The Department of Agriculture may promulgate administrative regulations establishing licensing fees, testing fees, and any other fees necessary to operate and maintain a metrology lab in the Office for Consumer and Public Service. These Restricted Funds receipts shall be utilized for personnel and operations of the metrology lab.

19. AUDITOR OF PUBLIC ACCOUNTS

	2004-05	**2005-06**
General Fund	5,780,800	5,530,800
Restricted Funds	3,096,500	3,306,000
TOTAL	8,877,300	8,836,800

(1) Auditor's Scholarships: Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

(2) Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

(3) Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit or investigation.

(4) Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor of Public Accounts shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of 120 days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional Agency Receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2004 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

20. PERSONNEL BOARD

	2004-05	**2005-06**
General Fund	558,500	558,500

(1) **Administrative Hearings Notice:** Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

21. KENTUCKY RETIREMENT SYSTEMS

	2004-05	**2005-06**
Restricted Funds	17,784,300	19,065,000

22. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Accountancy

	2004-05	**2005-06**
Restricted Funds	571,200	604,000

b. Certification of Alcohol and Drug Counselors

	2004-05	**2005-06**
Restricted Funds	65,200	67,200

c. Architects

	2004-05	**2005-06**
Restricted Funds	262,500	265,000

d. Certification for Professional Art Therapists

	2004-05	**2005-06**
Restricted Funds	11,400	11,400

e. Auctioneers

	2004-05	**2005-06**
Restricted Funds	398,800	397,300

f. Barbering

	2004-05	**2005-06**
Restricted Funds	230,300	236,600

g. Chiropractic Examiners

	2004-05	**2005-06**
Restricted Funds	194,400	200,500

h. Dentistry

	2004-05	**2005-06**
Restricted Funds	613,800	618,200

i. Licensure and Certification for Dietitians and Nutritionists

	2004-05	**2005-06**
Restricted Funds	74,500	77,500

j. Embalmers and Funeral Directors

	2004-05	**2005-06**
Restricted Funds	249,100	249,100

k. Licensure for Professional Engineers and Land Surveyors

	2004-05	**2005-06**
Restricted Funds	1,363,600	1,379,400

l. Certification of Fee-Based Pastoral Counselors

	2004-05	2005-06
Restricted Funds	7,500	7,500

m. **Registration for Professional Geologists**

	2004-05	2005-06
Restricted Funds	135,000	135,000

n. **Hairdressers and Cosmetologists**

	2004-05	2005-06
Restricted Funds	673,800	713,500

o. **Specialists in Hearing Instruments**

	2004-05	2005-06
Restricted Funds	51,500	55,200

p. **Interpreters for the Deaf and Hard of Hearing**

	2004-05	2005-06
Restricted Funds	31,000	31,000

q. **Examiners and Registration of Landscape Architects**

	2004-05	2005-06
Restricted Funds	58,500	58,600

r. **Licensure of Marriage and Family Therapists**

	2004-05	2005-06
Restricted Funds	83,200	83,200

s. **Medical Licensure**

	2004-05	2005-06
Restricted Funds	2,110,900	2,119,900

t. **Nursing**

	2004-05	2005-06
Restricted Funds	4,705,300	4,674,200

u. **Licensure for Nursing Home Administrators**

	2004-05	2005-06
Restricted Funds	76,200	76,200

v. **Licensure for Occupational Therapy**

	2004-05	2005-06
Restricted Funds	86,000	86,000

w. **Ophthalmic Dispensers**

	2004-05	2005-06
Restricted Funds	62,900	62,900

x. **Optometric Examiners**

	2004-05	2005-06
Restricted Funds	159,700	164,100

y. **Pharmacy**

	2004-05	2005-06
Restricted Funds	883,200	896,700

z. **Physical Therapy**

	2004-05	2005-06
Restricted Funds	263,100	264,700

aa. **Podiatry**

	2004-05	2005-06
Restricted Funds	21,100	21,700

ab. **Private Investigators**

	2004-05	2005-06
Restricted Funds	63,500	64,200

ac. **Licensed Professional Counselors**

	2004-05	2005-06
Restricted Funds	53,700	56,200

ad. **Proprietary Education**

	2004-05	2005-06
Restricted Funds	144,300	149,300

ae. **Examiners of Psychology**

	2004-05	2005-06
Restricted Funds	176,100	176,100

af. **Real Estate Appraisers Board**

	2004-05	2005-06
Restricted Funds	578,400	589,000

ag. **Real Estate Commission**

	2004-05	2005-06
Restricted Funds	2,251,100	2,179,400

ah. **Respiratory Care**

	2004-05	2005-06
Restricted Funds	132,700	139,600

ai. **Social Work**

	2004-05	2005-06
Restricted Funds	145,300	145,300

aj. **Speech-Language Pathology and Audiology**

	2004-05	2005-06
Restricted Funds	89,000	92,000

ak. **Veterinary Examiners**

	2004-05	2005-06
Restricted Funds	237,800	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2004-05	2005-06
Restricted Funds	17,315,600	17,385,500

23. EMERGENCY MEDICAL SERVICES

	2003-04	2004-05	2005-06
General Fund	-0-	2,391,600	2,391,600
Restricted Funds	23,900	171,700	171,700
Federal Funds	313,200	436,500	436,500
TOTAL	337,100	2,999,800	2,999,800

(1) **Current Year Appropriations:** Included in the above Restricted Funds appropriation is $23,900 in fiscal year 2003-2004 and included in the above Federal Funds appropriation is $313,200 in fiscal year 2003-2004 for the ambulance grant fund program.

24. GOVERNMENTAL SERVICES CENTER

	2004-05	2005-06
Restricted Funds	1,467,200	1,494,000

25. KENTUCKY RIVER AUTHORITY

	2004-05	2005-06
General Fund	369,500	369,500
Restricted Funds	5,372,800	1,582,200
TOTAL	5,742,300	1,951,700

(1) **Kentucky River Water Storage Enhancement Project:** Included in the fiscal year 2005-2006 Restricted Funds appropriation is $174,000 for debt service to support $1,773,000 in new agency bonds as set forth in Part II of this Act.

(2) **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

(3) **Kentucky River Authority Review of Water Supply and Water Project Plans:** The Kentucky River Authority shall review and approve water supply and water project plans of any entity created under the authority of KRS Chapter 74 with members located within the Kentucky River Basin area prior to implementation by the entity.

(4) **Authorization of Additional Interim Positions:** The Kentucky River Authority is authorized to hire two additional interim positions to assist with the operations of the locks and dams.

26. MISCELLANEOUS APPROPRIATIONS

(1) **Funding Sources for Miscellaneous Appropriations:** Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

a. Judgments

	2004-05	2005-06
General Fund	-0-	5,877,100

(1) **Payment of Judgments and Carry Forward of General Fund Appropriations:** The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.892 and 164.941. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2003-2004 or fiscal year 2004-2005 shall not lapse but shall be carried forward into fiscal years 2004-2005 and 2005-2006, respectively.

(2) **Kentucky Kare Health Insurance Claims:** Any claims presented that are a legal obligation of the Kentucky Kare Health Insurance Fund are deemed to be necessary governmental expenses and are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

b. Attorney General Expense

	2004-05	2005-06
General Fund	225,000	225,000

c. Board of Claims Awards

	2004-05	2005-06
General Fund	1,000,000	1,000,000

(1) **Repayment of Awards or Judgments:** Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,500 shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2004-05	2005-06
General Fund	3,700,000	3,700,000

(1) **Fees:** Included in the above appropriation is funding for fees to be paid to each guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2004-05	2005-06
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2004-05	2005-06
General Fund	2,300,000	2,300,000

(1) **Reissuance of Uncashed Checks:** Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments to an Intermediate Care Facility for the Mentally Retarded (ICF/MR)

	2004-05	2005-06
General Fund	60,000	60,000

h. **Payments to Frankfort in Lieu of Taxes**

	2004-05	2005-06
General Fund	195,000	195,000

i. **Frankfort Cemetery**

	2004-05	2005-06
General Fund	2,500	2,500

j. **Police Officers and Firefighters - Life Insurance**

	2004-05	2005-06
General Fund	250,000	250,000

(1) Payment of Benefits: Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315 and 95A.070.

k. **Master Commissioners - Employers Retirement**

	2004-05	2005-06
General Fund	200,000	200,000

l. **Master Commissioners - Social Security**

	2004-05	2005-06
General Fund	365,000	365,000

m. **Medical Malpractice Liability Insurance Reimbursements**

	2004-05	2005-06
General Fund	185,000	185,000

n. **Blanket Employee Bonds**

	2004-05	2005-06
General Fund	100,000	100,000

o. **Necessary Government Expenses**

	2004-05	2005-06
General Fund	-0-	-0-

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2004-05	2005-06
General Fund	8,982,500	14,859,600

TOTAL - GENERAL GOVERNMENT

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	39,195,900	39,099,300
General Fund	25,000	227,572,000	259,159,600
Restricted Funds	5,970,200	187,287,300	189,145,700
Federal Funds	1,983,000	179,326,500	173,925,600
Road Fund	-0-	250,000	250,000
TOTAL	7,978,200	633,631,700	661,580,200

B. COMMERCE CABINET

Budget Units

1. OFFICE OF THE SECRETARY

	2004-05	2005-06
General Fund	2,021,400	2,021,400

(1) Outdoor Drama Grants: Included in the above General Fund appropriation is $280,000 in each fiscal year for the purpose of supporting the following grants: Someday Outdoor Drama, $20,000 in each year; Stephen Foster, $40,000 in each year; Pioneer School of Drama, $28,500 in each year; Edmonson County/Floyd Collins, $15,000 in each year; Music Theater of Louisville, $9,000 in each year; Pine Knob Theater, $29,500 in each year; Kincaid Regional Theater, $27,500 in each year; Twilight Cabaret, $9,000 in each year; Horse Cave Theater, $11,000 in each year; Jenny Wiley, $39,500 in each year; Fort Harrod Drama Productions, $41,000 in each year; and Greenbo Lake State Resort Park, $10,000 in each year.

2. **ARTISANS CENTER**

	2004-05	2005-06
General Fund	273,800	273,800
Restricted Funds	1,297,600	1,297,600
TOTAL	1,571,400	1,571,400

3. **BREAKS INTERSTATE PARK**

	2004-05	2005-06
General Fund	191,100	191,100

4. **TRAVEL**

	2004-05	2005-06
General Fund	6,329,400	6,329,400
Restricted Funds	2,000,000	-0-
TOTAL	8,329,400	6,329,400

(1) **Tourism Marketing and Development:** Included in the above Restricted Funds appropriation is $2,000,000 in fiscal year 2004-2005 for Tourism Marketing and Development on behalf of the coal producing counties from the Local Government Economic Development Fund Multi-County Fund.

5. **PARKS**

	2004-05	2005-06
General Fund	28,613,100	31,950,100
Restricted Funds	55,428,300	58,506,800
TOTAL	84,041,400	90,456,900

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.800, 148.805, and 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(2) **Debt Service:** Included in the above General Fund appropriation is $3,337,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II of this Act.

(3) **Craft Sales in Park Gift Shops:** Notwithstanding KRS 11A.040 and 45.340, crafts persons employed and juried by Fort Boonesborough State Park and Old Fort Harrod State Park may sell craft items they make to the state park at which they are employed for resale in its gift shop.

(4) **Feasibility Study:** The University of Kentucky, jointly with the Bluegrass Area Development District, shall conduct a comprehensive study of the feasibility and cost of constructing a state park lodge at Fort Boonesborough State Park.

The study shall begin no later than August 1, 2004, and shall submit a report and recommendations to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Economic Development and Tourism not later than the interim committees' regularly scheduled meeting in October 2004.

6. **KENTUCKY HORSE PARK COMMISSION**

	2003-04	2004-05	2005-06
General Fund	550,000	1,821,200	1,821,200
Restricted Funds	-0-	5,722,800	5,729,000
TOTAL	550,000	7,544,000	7,550,200

(1) **Current Year Appropriation:** Included in the above General Fund appropriation is $550,000 in fiscal year 2003-2004 to support ongoing costs at the Kentucky Horse Park.

(2) **Equipment Leases**: Included in the above General Fund appropriation is $200,000 in each fiscal year to support the lease of up to $1,000,000 in equipment.

7. **STATE FAIR BOARD**

	2004-05	2005-06
General Fund	396,800	638,800
Restricted Funds	35,003,200	36,170,500
TOTAL	35,400,000	36,809,300

(1) **Debt Service:** Included in the above Restricted Funds appropriation is $4,012,300 in fiscal year 2004-2005 and $4,012,900 in fiscal year 2005-2006 for previously issued bonds. Also included in the above General Fund appropriation is $242,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II of this Act.

(2) **Maintenance Projects:** In accordance with KRS 247.190, the Kentucky State Fair Board is authorized to expend available agency revenue receipts to complete regular or ongoing maintenance projects.

8. FISH AND WILDLIFE RESOURCES

	2004-05	2005-06
Restricted Funds	27,941,700	27,941,700
Federal Funds	10,830,000	10,864,000
TOTAL	38,771,700	38,805,700

9. KENTUCKY HISTORICAL SOCIETY

	2004-05	2005-06
General Fund	5,871,800	5,871,800
Restricted Funds	633,800	727,300
Federal Funds	342,000	325,000
TOTAL	6,847,600	6,924,100

10. ARTS COUNCIL

	2004-05	2005-06
General Fund	4,210,900	4,210,900
Restricted Funds	755,500	553,500
Federal Funds	691,000	685,500
TOTAL	5,657,400	5,449,900

(1) **Open Meetings:** Any entity involved in producing or financing arts on a local or statewide basis, which receives funds from the Kentucky Arts Council or from grants from local governmental authorities, shall be required to conduct its business as a public agency pursuant to KRS 61.800 to 61.850 and KRS 61.870 to 61.884.

11. HERITAGE COUNCIL

	2004-05	2005-06
General Fund	1,016,700	1,016,700
Restricted Funds	366,500	368,600
Federal Funds	587,800	587,800
TOTAL	1,971,000	1,973,100

12. KENTUCKY CENTER FOR THE ARTS

	2004-05	2005-06
General Fund	1,138,600	550,000

(1) **Operating Budget:** Funds totaling $588,600 in fiscal year 2004-2005 are being redirected to provide for capital maintenance and repair projects at the Center.

TOTAL -COMMERCE CABINET

	2003-04	2004-05	2005-06
General Fund	550,000	51,884,800	54,875,200
Restricted Funds	-0-	129,149,400	131,295,000
Federal Funds	-0-	12,450,800	12,462,300
TOTAL	550,000	193,485,000	198,632,500

C. ECONOMIC DEVELOPMENT CABINET

Budget Units

1. OFFICE OF THE SECRETARY

	2003-04	2004-05	2005-06
General Fund	-0-	8,998,500	9,548,400
Restricted Funds	1,342,300	2,366,600	1,704,800
TOTAL	1,342,300	11,365,100	11,253,200

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $1,342,300 in fiscal year 2003-2004 to support current year operating expenses in the Office for the New Economy.

(2) **East Kentucky Jobs Creation Corporation, West Kentucky Jobs Creation Corporation, and Regional Development Office:** Included in the above Restricted Funds appropriation is $467,000 in fiscal year 2004-2005 and $467,000 in

fiscal year 2005-2006 for the West Kentucky Jobs Creation Corporation. Included in the above Restricted Funds appropriation is $467,000 in fiscal year 2004-2005 and $467,000 in fiscal year 2005-2006 for the East Kentucky Jobs Creation Corporation. Also included in the above General Fund appropriation is $755,400 in fiscal year 2004-2005 and $768,500 in fiscal year 2005-2006 for the Department for Regional Development. Notwithstanding KRS 42.4592, the General Fund appropriations for the Department for Regional Development shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

(3) **Kentucky Technology Service Grant:** Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2004-2005 and $150,000 in fiscal year 2005-2006 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center. Included in the above General Fund appropriation is $150,000 in fiscal year 2005-2006 for the Kentucky Technology Service Grant.

(4) **Louisville Waterfront Development Corporation:** Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2004-2005 and $420,800 in fiscal year 2005-2006 for the Louisville Waterfront Development Corporation.

(5) **Office of the Commissioner for the New Economy:** Included in the above Restricted Funds appropriation is $1,511,800 in fiscal year 2004-2005 for the Office of the Commissioner for the New Economy. Also included in the above General Fund appropriation is $3,367,600 in fiscal year 2004-2005 and $3,879,400 in fiscal year 2005-2006. A portion of these funds will be used for the Innovation and Commercialization Centers grant of $1,400,000 in each year of the biennium administered by the Kentucky Science and Technology Corporation.

(6) **New Economy High-Tech Construction and High-Tech Investment Pools:** Included in the above General Fund appropriation is $3,625,000 in fiscal year 2004-2005 and $3,500,000 in fiscal year 2005-2006 for the New Economy High-Tech Construction and High-Tech Investment Pools. Notwithstanding KRS 42.4592, the General Fund appropriation for the Office for the New Economy shall be funded from the Local Government Economic Development Fund prior to any statutory distribution from the Local Government Economic Development Fund. The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment and High-Tech Construction Pools.

(7) **Funding for the New Economy:** Notwithstanding Subchapter 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects. Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget, of this Act.

(8) **Kentucky Science and Technology Corporation:** Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office for the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

(9) **Federal Research Laboratory:** Agencies within state government, including but not limited to the Economic Development Cabinet, the Council on Postsecondary Education, the Office of the Governor, and the state postsecondary institutions shall provide technical assistance and pool resources as necessary for the purpose of recruiting a federal research laboratory to the Commonwealth. The Office for the New Economy shall serve as the central point of contact and coordination for this effort.

2. ADMINISTRATION AND SUPPORT

	2004-05	**2005-06**
General Fund	1,944,700	1,944,700
Restricted Funds	-0-	9,600
TOTAL	1,944,700	1,954,300

3. BUSINESS DEVELOPMENT

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	2,093,600	2,093,600
Restricted Funds	110,000	366,800	580,000
TOTAL	110,000	2,460,400	2,673,600

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $110,000 in fiscal year 2003-2004 to support personnel and operating expenses.

4. FINANCIAL INCENTIVES

	2004-05	**2005-06**
General Fund	3,327,600	4,759,600
Restricted Funds	2,240,300	2,266,700

TOTAL	5,567,900	7,026,300

(1) **Debt Service:** Included in the above General Fund appropriation is $1,432,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act.

(2) **Carry Forward of General Fund Appropriations and Bluegrass State Skills Corporation Training Grant Offers:** Notwithstanding KRS 45.229, the General Fund appropriations for fiscal year 2003-2004 and for fiscal year 2004-2005 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account. The Corporation is authorized to extend an additional $1,500,000 in training grant offers during the 2004-2006 biennium. In the event that such offers are made, and that disbursements are required to support those offers, funds shall be appropriated from the General Fund Surplus Account in an amount not to exceed $1,500,000.

(3) **Lapse of Special Revenue Fund Accounts:** Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Statewide Deferred Maintenance Fund account at the end of each fiscal year.

(4) **Kentucky Investment Fund Act Tax Credits:** The total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,300,000 for all investors and all taxable years. The total KIFA tax credits available for all investors in all investment funds shall not exceed $5,000,000 per fiscal year.

(5) **Interstate Industrial Park:** The Kentucky Economic Development Finance Authority shall reduce by $500,000 the existing loan balance on the Franklin-Simpson Industrial Authority Project to expand the Interstate Industrial Park.

5. COMMUNITY DEVELOPMENT

	2004-05	**2005-06**
General Fund	2,652,300	2,652,300
Restricted Funds	438,600	440,600
Federal Funds	155,400	155,400
TOTAL	3,246,300	3,248,300

TOTAL - ECONOMIC DEVELOPMENT CABINET

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	19,016,700	20,998,600
Restricted Funds	1,452,300	5,412,300	5,001,700
Federal Funds	-0-	155,400	155,400
TOTAL	1,452,300	24,584,400	26,155,700

D. DEPARTMENT OF EDUCATION

Budget Units

1. EXECUTIVE POLICY AND MANAGEMENT

	2004-05	**2005-06**
General Fund	687,900	687,900

(1) **Employment of Personnel:** Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

(2) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

(3) **Medicaid Reimbursement Funds:** The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid Program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Department for Medicaid Services, prior to review and approval by the Governor's Office of Policy and Management and submission to the Interim Joint Committee on Appropriations and Revenue at least 60 days prior to any distribution of Federal Funds.

(4) **Role of the Secretary of Education:** Notwithstanding KRS 12.020, the Department of Education is attached to the Office of the Secretary of the Education Cabinet for the purpose of dissemination of information only and the Secretary of the Education Cabinet shall not have any authority over the functions, personnel, funds, equipment, facilities, or records of the Department of Education during the 2004-2006 biennium.

(5) **Kentucky Board of Education Membership:** Notwithstanding KRS 156.029(2), no Kentucky Board of Education member at the time of the member's appointment or during the term of service shall be engaged as a professional educator in elementary or secondary education.

2. OPERATIONS AND SUPPORT SERVICES

	2004-05	2005-06
General Fund	10,888,600	11,173,400
Restricted Funds	2,886,400	2,354,400
Federal Funds	27,800	27,800
TOTAL	13,802,800	13,555,600

(1) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is $2,531,700 in fiscal year 2004-2005 and $2,607,800 in fiscal year 2005-2006 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

(2) **Debt Service:** Included in the above General Fund appropriation in fiscal year 2005-2006 is $336,000 to provide for debt service for new bonds as set forth in Part II of this Act.

(3) **Management Assistance Program:** Included in the above General Fund appropriation is $200,000 in each fiscal year for the Management Assistance Program.

(4) **Medical Insurance Fund:** No funds are provided in the above appropriations for the employer contributions to the medical insurance fund established in 2004 House Bill 434 in fiscal year 2004-2005 and fiscal year 2005-2006.

3. LEARNING AND RESULTS SERVICES

	2004-05	2005-06
General Fund (Tobacco)	1,888,400	1,888,400
General Fund	593,939,600	608,658,800
Restricted Funds	1,896,400	1,801,200
Federal Funds	525,064,200	525,223,100
TOTAL	1,122,788,600	1,137,571,500

(1) **Education Technology Escrow Account:** Included in the above General Fund appropriation is $18,108,700 in fiscal year 2004-2005 and $18,108,700 in fiscal year 2005-2006 for the education technology escrow account.

(2) **Education of State Agency Children:** Included in the above General Fund appropriation is $10,462,100 in fiscal year 2004-2005 and $10,462,100 in fiscal year 2005-2006 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

(3) **Funding for Employee Health and Life Insurance and Carry Forward of General Fund Appropriations:** Included in the above General Fund appropriation is $308,016,600 in fiscal year 2004-2005 and $321,571,800 in fiscal year 2005-2006 to provide health insurance and life insurance coverage for employees of local school districts.

If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. The per month per employee administrative assessment as contained in Appendix B of the budget instructions as promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Department of Personnel by the Department of Education from the General Fund appropriation for local school district health and life insurance.

(4) **Kentucky School for the Blind and Kentucky School for the Deaf:** Included in the above General Fund appropriation is $5,835,600 in fiscal year 2004-2005 and $5,835,600 in fiscal year 2005-2006 for the Kentucky School for the Blind, and $8,430,300 in fiscal year 2004-2005 and $8,430,300 in fiscal year 2005-2006 for the Kentucky School for the Deaf.

(5) **Kentucky Education Technology System:**

(a) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(b) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

(6) **Family Resource and Youth Services Centers:** Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2004-2005 and in fiscal year 2005-2006 to the Health and Family Services Cabinet consistent with the intent of KRS 156.497. The Health and Family Services Cabinet is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth

Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Health and Family Services Cabinet identifying the salary of the director. The Health and Family Services Cabinet shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

(7) **Area Centers and Vocational Departments Funding Formula:** All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled.

(8) **Program Flexibility:** Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regards to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall continue to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

(9) **Local District Grant Fund Carry Forward:** Notwithstanding KRS 45.229, up to ten percent of any non-SEEK state grant fund appropriated to the Department of Education and disbursed to a local district that is unexpended during fiscal year 2004-2005 may be carried forward to fiscal year 2005-2006.

(10) **Highly Skilled Educators:** Notwithstanding KRS 158.6455(3)(d), 158.782, and 160.350(3), the Kentucky Department of Education shall have the authority to expend moneys appropriated for the Highly Skilled Education Assistance Program on intervention services that may be required by the Federal No Child Left Behind Act of 2001 (Pub. L. 107-110).

(11) **Commonwealth School Improvement Fund:** Notwithstanding KRS 158.805, the Commissioner of Education shall be authorized to use the Commonwealth School Improvement Fund to provide support services to schools needing assistance under KRS 158.6455 or in order to meet the requirements of No Child Left Behind.

(12) **Allocation of Safe School Funds:** Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

(13) **Funds Transfer:** The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

(14) **Publishing Requirements:** Notwithstanding KRS 158.6453(7), 160.463, and 424.220, public availability of the school district's complete annual financial statement and the school report card shall be made by publishing the documents in the newspaper of the largest general circulation in the county, electronically on the Internet, or by printed copy at a prearranged site at the main branch of the public library within the school district. If publication on the Internet or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be viewed.

(15) **Surplus Property:** Notwithstanding KRS 45A.045, 45.777, and 56.463, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind and the Kentucky School for the Deaf shall be deposited in a restricted account for the sole use by those schools in accordance with all other applicable statutes.

4. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

	2004-05	**2005-06**
General Fund	2,436,136,600	2,587,832,700

(1) **Common School Fund Earnings:** Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) **Base SEEK Allotments:** The above appropriations include $1,909,626,100 in fiscal year 2004-2005 and $2,045,482,100 in fiscal year 2005-2006 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is $211,953,500 in fiscal year 2004-2005 and $211,953,500 in fiscal year 2005-2006 for pupil transportation.

(3) **Tier I Component:** Included in the above appropriation is $143,858,900 in fiscal year 2004-2005 and $144,964,400 in fiscal year 2005-2006 for the Tier I component as established by KRS 157.440.

(4) **Vocational Transportation:** Included in the above appropriation is $2,416,900 in fiscal year 2004-2005 and $2,416,900 in fiscal year 2005-2006 for vocational transportation.

(5) Secondary Vocational Education: Included in the above appropriation is $21,952,600 in fiscal year 2004-2005 and $21,952,600 in fiscal year 2005-2006 to provide secondary vocational education in state-operated vocational schools.

(6) Facilities Support Program of Kentucky/Equalized Growth Nickel: Included in the above appropriation is $64,658,700 in fiscal year 2004-2005 and $60,939,700 in fiscal year 2005-2006 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620. Included in the General Fund appropriations is $3,000,000 in fiscal year 2004-2005 and $3,000,000 in fiscal year 2005-2006 to provide facilities equalization funding for debt service, new facilities, and major renovations of existing facilities pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) as provided for in section (13) of this budget unit regarding equalized growth nickel funding.

(7) Teachers' Retirement System Employer Match: Included in the above appropriation is $292,265,400 in fiscal year 2004-2005 and $310,319,000 in fiscal year 2005-2006 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

(8) Salary Supplements for Nationally Certified Teachers: Included in the above appropriation is $1,358,000 in fiscal year 2004-2005 and $1,758,000 in fiscal year 2005-2006 to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards.

(9) Allocation of SEEK Funds: Notwithstanding KRS 157.360(2)(c), the General Fund appropriations to the base SEEK Program are intended to provide a base guarantee of $3,261 per student in average daily attendance in fiscal year 2004-2005 and $3,474 per student in average daily attendance in fiscal year 2005-2006 as well as to meet the other requirements of KRS 157.360.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

(10) Certified Staff and Classified Staff Pay Increases: Notwithstanding KRS 157.420(2), all certified staff employed by local boards of education shall receive a cost-of-living adjustment of not less than three percent in fiscal year 2004-2005 and not less than four and one-half percent in fiscal year 2005-2006. The cost-of-living adjustments in the 2004-2006 biennium shall be in addition to the normal rank and step increases attained by certified personnel in local school districts. Included in this cost-of-living adjustment is an Employer Health Insurance cost-of-living adjustment of one and one-half percent in fiscal year 2004-2005 and fiscal year 2005-2006. All classified staff employed by local boards of education shall receive a cost-of-living adjustment of not less than three percent in fiscal year 2004-2005 and not less than four and one-half percent in fiscal year 2005-2006. The cost-of-living adjustments in the 2004-2006 fiscal biennium shall be in addition to any salary increase an employee might obtain due to additional experience or job classification. Included in this cost-of-living adjustment is an Employer Health Insurance cost-of-living adjustment of one and one-half percent in fiscal year 2004-2005 and fiscal year 2005-2006.

(11) Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

(12) SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(13) Equalized Growth Nickel: Notwithstanding KRS 157.621(1), local school districts shall receive state equalization facilities funding up to the amounts available for this purpose on the existing additional tax levy pursuant to KRS 157.621, if they have: (a) Previously levied the additional tax pursuant to KRS 157.621 for debt service and new facilities prior to fiscal year 2003-2004; (b) Levied the five cents ($0.05) under the provisions of KRS 157.440; (c) Met the growth requirements in KRS 157.621(2) in fiscal year 2002-2003; and (d) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (a) and (b) of this paragraph.

(14) School Employee Flexible Spending Account Funds Transfer: Any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2004 and calendar year 2005 shall also be transferred to the credit of the General Fund.

(15) Local Revenue: For calendar year 2004 and calendar year 2005, a district board of education may levy a general rate that will produce revenue from real property, exclusive of revenue from new property that is up to four percent over the amount of the revenue produced by the compensating rate as defined in KRS 132.010.

(16) Use of Local District Capital Outlay Funds: Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2004-2005 and fiscal year 2005-2006 without forfeiture of the district's participation in the School Facility Construction Commission.

(17) Medical Insurance Fund: No funds are provided in the above appropriations for the employer contributions to the medical insurance fund established in 2004 House Bill 434 in fiscal year 2004-2005 and fiscal year 2005-2006.

(18) Equalized Facility Funding: A local board of education that levied a tax rate subject to recall in fiscal year 2003-2004 in addition to the five cents levied pursuant to KRS 157.440(1)(b) and committed the receipts to debt service, new facilities or major renovations of existing school facilities shall be eligible for equalization funds from the state at 150% of the statewide average per pupil assessment. The equalization funds shall be used as provided in KRS 157.440(1)(b).

TOTAL - DEPARTMENT OF EDUCATION

	2004-05	2005-06
General Fund (Tobacco)	1,888,400	1,888,400
General Fund	3,041,652,700	3,208,352,800
Restricted Funds	4,782,800	4,155,600
Federal Funds	525,092,000	525,250,900
TOTAL	3,573,415,900	3,739,647,700

E. EDUCATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2004-05	2005-06
General Fund	3,986,200	4,027,800
Restricted Funds	5,727,200	5,727,200
Federal Funds	185,000	190,000
TOTAL	9,898,400	9,945,000

(1) Governor's Scholars Program: Included in the above General Fund appropriation is $1,897,800 in fiscal year 2004-2005 and $1,939,400 in fiscal year 2005-2006 for the Governor's Scholars Program, of which $1,647,700 in fiscal year 2004-2005 and $1,684,100 in fiscal year 2005-2006 is for grant amounts.

(2) Secretary's Office: The Education Cabinet Secretary's Office shall be funded at an amount no greater than $842,400 each fiscal year. Included in the Education Cabinet Secretary's Office each fiscal year of the biennium is $25,000 for the Bluegrass State Games, $95,400 for the Mountain Arts Center, $81,900 for the Blue Apple Players, and $225,200 for the Eastern Kentucky Center for Science, Math, and Technology. The Teachers' Retirement Employer's Contribution for the employees in the General Administration and Program Support unit shall be paid from the Education Cabinet Secretary's Office.

(3) Medical Insurance Fund: No funds are provided in the above appropriations for the employer contributions to the medical insurance fund established in 2004 House Bill 434 in fiscal year 2004-2005 and fiscal year 2005-2006.

(4) Role of the Secretary of Education: Notwithstanding KRS 12.020, the Department of Education is attached to the Office of the Secretary of the Education Cabinet for the purpose of dissemination of information only and the Secretary of the Education Cabinet shall not have any authority over the functions, personnel, funds, equipment, facilities, or records of the Department of Education during the 2004-2006 biennium.

2. DEAF AND HARD OF HEARING

	2004-05	2005-06
General Fund	821,100	821,100
Restricted Funds	252,000	252,000
TOTAL	1,073,100	1,073,100

3. KENTUCKY EDUCATIONAL TELEVISION

	2004-05	2005-06
General Fund	14,145,200	14,145,200
Restricted Funds	1,039,600	1,075,700
Federal Funds	700,000	700,000
TOTAL	15,884,800	15,920,900

4. ENVIRONMENTAL EDUCATION COUNCIL

	2004-05	2005-06

Restricted Funds	187,200	187,200

5. **LIBRARIES AND ARCHIVES**

a. **General Operations**

	2004-05	**2005-06**
General Fund	7,222,000	7,368,600
Restricted Funds	1,827,600	1,896,200
Federal Funds	1,950,100	1,955,300
TOTAL	10,999,700	11,220,100

(1) **Undistributed Moneys:** Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with book suppliers shall be appropriated to the Department for Libraries and Archives for the benefit of libraries in the Commonwealth.

b. **Direct Local Aid**

	2004-05	**2005-06**
General Fund	6,578,000	6,431,400
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
TOTAL	7,011,000	6,864,400

(1) **Per Capita Grants:** Included in the above General Fund appropriation is $4,000,000 in each fiscal year to award per capita grants at the rate of $0.73.

TOTAL - DEPARTMENT FOR LIBRARIES AND ARCHIVES

	2004-05	**2005-06**
General Fund	13,800,000	13,800,000
Restricted Funds	1,836,600	1,905,200
Federal Funds	2,374,100	2,379,300
TOTAL	18,010,700	18,084,500

6. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2004-05	**2005-06**
General Fund	95,042,400	102,844,300

(1) **Debt Service:** Included in the above General Fund appropriation is $7,827,300 in fiscal year 2004-2005 and $15,623,700 in fiscal year 2005-2006 in additional General Fund moneys to: (a) fulfill the commitment made by the 2000 Regular Session of the General Assembly for $100 million in bonded indebtedness for local school construction and renovation; (b) fulfill the commitment made by the 2003 Regular Session of the General Assembly for an additional $100 million in bonded indebtedness for school construction and renovation; (c) fulfill the commitment made by the 2003 Regular Session of the General Assembly to the Fayette County public school system for $4,600,000 in bonded indebtedness; and (d) fulfill the commitment made by the 2003 Regular Session of the General Assembly for $110,000,000 in bonded indebtedness to address the needs of Category 5 (worst condition) schools.

(2) **Growth Nickel Levy:** The Facilities Support Program of Kentucky is fully funded in the 2004-2006 fiscal biennium. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

(3) **School Facility Revenue:** A local board of education may commit an equivalent tax rate not to exceed five cents ($0.05) in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year, and shall not be equalized with state funding. The levy shall be subject to recall.

(4) **Urgent Need School Trust Fund:** The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse, but shall carry forward at the end of each fiscal year.

(5) **Category 5 Buildings:** Debt service assistance to each eligible district, as provided for in Part I, Operating Budget, of this Act, shall be determined by funding based on unmet need pursuant to KRS 157.620, calculated utilizing Cash Balances and Bonding Potential available for the project with the Kentucky Department of Education's Building Assessment document of March 4, 2003. These offers shall be administered in accordance with 750 KAR 1:010 where not in conflict with the language in

this section.

(6) Offers of Assistance: Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

(7) Additional Offers of Assistance: Notwithstanding any provisions of KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2004-2006 biennium in anticipation of debt service availability during the 2006-2008 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2004-2006 biennium.

7. TEACHERS' RETIREMENT SYSTEM

	2004-05	**2005-06**
General Fund	106,790,800	120,830,500
Restricted Funds	8,147,900	8,613,500
TOTAL	114,938,700	129,444,000

(1) State Retirement Obligations: General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716 notwithstanding KRS 161.550.

(2) Lapse of Excess General Fund Appropriations: The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

(3) Administrative Costs: In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2004-2005 or fiscal year 2005-2006 for the cost of administration.

(4) Amortization of Sick Leave: Included in the above General Fund appropriation is $3,669,700 in fiscal year 2004-2005 and $8,009,200 in fiscal year 2005-2006 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2004-2006 fiscal biennium.

(5) Fiscal Year 2001-2002 and 2002-2003 Underappropriations: Included in the above General Fund appropriation is $9,282,500 in fiscal year 2005-2006 to be applied toward underappropriations during fiscal year 2001-2002 and fiscal year 2002-2003, notwithstanding the provisions of KRS 161.550.

(6) Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapters 158 and 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

(7) Cost-of-Living Adjustments for Retirees: Included in the above appropriation is $3,996,200 in fiscal year 2004-2005 and $7,706,900 in fiscal year 2005-2006 to provide, when combined with the annual one and one-half percent retirement allowance increase provided in KRS 161.620, a total increase in the retirement allowances of eligible system members and beneficiaries of two and three-tenths percent in fiscal year 2004-2005 and an additional two and two-tenths percent in fiscal year 2005-2006.

(8) Medical Insurance Fund: No funds are provided in the above appropriations for the employer contributions to the medical insurance fund established in 2004 House Bill 434 in fiscal year 2004-2005 and fiscal year 2005-2006.

8. DEPARTMENT FOR THE BLIND

	2004-05	**2005-06**
General Fund	1,290,300	1,306,300
Restricted Funds	1,847,200	1,833,900
Federal Funds	8,210,400	8,638,400
TOTAL	11,347,900	11,778,600

9. EMPLOYMENT SERVICES

	2004-05	**2005-06**
Restricted Funds	4,869,300	3,393,900
Federal Funds	733,305,800	734,092,000
TOTAL	738,175,100	737,485,900

(1) Unemployment Insurance Penalty and Interest Account: Notwithstanding KRS 341.835, funds in the amount of $2,700,000 from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment, training, and unemployment insurance programs.

(2) Administration Expenses: In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Federal Social Security Act, as amended, may be used for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser Programs, subject to the provisions of KRS 48.630.

(3) Facility Replacement and Renovation Program: The General Assembly authorizes the Department for Employment Services to develop and implement a Facility Replacement and Renovation Program to improve the quality of facilities used by the Department and its clients, and to reduce departmental reliance on lease-rental properties.

Proceeds from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Additionally, funds received from the Reed Act distribution under Section 903(d) of the Federal Social Security Act, as amended, may be used for the purpose of acquiring property and constructing a building and such improvements, facilities, paving, landscaping, and fixed equipment as may be required for use by the Education Cabinet. Expenditures authorized by this provision are limited to the use of funds derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and national government, and funds received from the Reed Act distribution. Uses of Reed Act funds for these purposes are subject to the provisions of KRS 45.750 to 45.800 and 48.630.

10. TECHNICAL EDUCATION

	2004-05	2005-06
General Fund	25,298,700	26,098,700
Restricted Funds	20,232,800	19,970,500
Federal Funds	15,179,700	15,179,700
TOTAL	60,711,200	61,248,900

(1) Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2004-2006 fiscal biennium.

(2) Teachers' Retirement Employer's Contribution: The employer's contribution for teachers' retirement in the Department for Technical Education shall be considered a necessary governmental expense. Up to $1,000,000 each fiscal year shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). Up to $1,000,000 each fiscal year may be reallocated between expenditure categories in the Department for Technical Education to continue current services at the Area Technical Centers.

(3) Medical Insurance Fund: No funds are provided in the above appropriations for the employer contributions to the medical insurance fund established in 2004 House Bill 434 in fiscal year 2004-2005 and fiscal year 2005-2006.

11. TRAINING AND REEMPLOYMENT

	2004-05	2005-06
Restricted Funds	700	-0-
Federal Funds	64,231,800	64,345,200
TOTAL	64,232,500	64,345,200

12. VOCATIONAL REHABILITATION

	2003-04	2004-05	2005-06
General Fund	-0-	12,294,300	12,477,300
Restricted Funds	-0-	2,952,900	2,893,200
Federal Funds	7,000	45,513,000	47,194,000
TOTAL	7,000	60,760,200	62,564,500

(1) Current Year Appropriation: Included in the above Federal Funds appropriation is $7,000 in fiscal year 2003-2004 to continue current services.

(2) Debt Service: Included in the above General Fund appropriation is $119,100 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II of this Act.

(3) Teachers' Retirement Employer's Contribution: The employer's contribution for teachers' retirement in the Department for Vocational Rehabilitation shall be considered a necessary governmental expense. Up to $500,000 each fiscal year shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). Up to $500,000 each fiscal year may be reallocated between expenditure categories in the Department for Vocational Rehabilitation to continue current program services at the local field offices and the One Stop Centers.

(4) **Medical Insurance Fund:** No funds are provided in the above appropriations for the employer contributions to the medical insurance fund established in 2004 House Bill 434 in fiscal year 2004-2005 and fiscal year 2005-2006.

13. EDUCATION PROFESSIONAL STANDARDS BOARD

	2004-05	2005-06
General Fund	10,120,800	10,562,000
Restricted Funds	829,600	829,600
Federal Funds	4,379,200	4,379,200
TOTAL	15,329,600	15,770,800

(1) **National Board of Teaching Standards Certification:** Notwithstanding KRS 161.134, up to $725,000 in fiscal year 2004-2005 and $800,000 in fiscal year 2005-2006 is provided for National Board of Teaching Standards Certification from the General Fund.

(2) **Education Professional Standards Board Operations:** Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

(3) **Kentucky Principal Internship Program:** Notwithstanding KRS 161.027, no funds are provided in the above appropriations for the operational costs of the Kentucky Principal Internship Program in either fiscal year of the 2004-2006 biennium.

(4) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

(5) **Leadership Development:** Included in the above General Fund appropriation is $250,000 in fiscal year 2004-2005 and $250,000 in fiscal year 2005-2006 for the New Leadership Development Program.

TOTAL - EDUCATION CABINET

	2003-04	2004-05	2005-06
General Fund	-0-	283,589,800	306,913,200
Restricted Funds	-0-	47,923,000	46,681,900
Federal Funds	7,000	874,079,000	877,097,800
TOTAL	7,000	1,205,591,800	1,230,692,900

F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2004-05	2005-06
General Fund	10,328,400	10,328,400
Restricted Funds	7,118,700	7,222,500
Federal Funds	1,560,500	1,581,500
TOTAL	19,007,600	19,132,400

(1) **Engineering Salary Parity:** The Secretary of the Environmental and Public Protection Cabinet is authorized to expend funds in an amount sufficient to pay engineers in the Cabinet at the same grade as engineers in other cabinets, as appropriate.

2. ENVIRONMENTAL PROTECTION

	2004-05	2005-06
General Fund	23,593,500	23,593,500
Restricted Funds	47,676,900	50,867,600
Federal Funds	16,065,200	15,602,900
TOTAL	87,335,600	90,064,000

(1) **Municipal Solid Waste Landfill Inspectors:** Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

(2) **Kentucky Pride Program:** Included in the above Restricted Funds appropriation is $24,991,500 in fiscal year 2004-2005 and $29,835,100 in fiscal year 2005-2006 for the Kentucky Pride Program.

(3) **Hazardous Waste Fund:** Notwithstanding KRS 224.46-580(7), the annual hazardous waste assessment as set forth in KRS 224.46-580(8) shall continue until June 30, 2006.

(4) **Solid Waste Enforcement Activity:** In accordance with KRS 224.43-505, the Environmental and Public

Protection Cabinet shall suspend until July 2006 enforcement activity regarding landfill closure, maintenance, monitoring, and remediation obligations against formerly permitted municipal solid waste disposal and water facilities owned by a city or county that ceases accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

(5) **Coal Waste Study:** Notwithstanding KRS 146.565 and 146.570, the sum of $300,000 shall be allocated to the Department of Mining and Engineering in the University of Kentucky for use as an initiative to secure federal grant money for a coal waste impoundment research initiative. The research will focus on areas of inquiry identified by the National Research Council Committee on Coal Waste Impoundments in its report *Coal Waste Impoundments: Risks, Responses, and Alternatives.*

3. NATURAL RESOURCES

	2004-05	2005-06
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	13,247,800	13,247,800
Restricted Funds	6,269,200	5,526,200
Federal Funds	9,743,900	9,872,100
TOTAL	38,260,900	37,646,100

(1) **Emergency Forest Fire Suppression:** Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $9,000,000 in each fiscal year for the Environmental Stewardship Program.

4. SURFACE MINING RECLAMATION AND ENFORCEMENT

	2004-05	2005-06
General Fund	10,509,400	10,509,400
Restricted Funds	6,622,500	6,944,700
Federal Funds	16,832,700	17,007,900
TOTAL	33,964,600	34,462,000

(1) **Return of Permit and Acreage Fees:** Included in the above General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

(2) **Surface Coal Mining Permits:** The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Natural Resources and Environmental Protection Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

The federal Office of Surface Mining proposed in the December 29, 2003, Federal Register a revision of its ownership and control regulations addressing, among other things, permit application information requirements, permit eligibility, and alternative enforcement. When that regulation is published as a final regulation, the Environmental and Public Protection Cabinet is directed to immediately promulgate the final federal regulation on ownership and control as a state regulation. The above provisions governing ownership and control shall remain in effect until the revised federal ownership and control regulation is adopted as a final Kentucky regulation, whereupon these provisions shall become null, void, and unenforceable.

5. ABANDONED MINE LAND RECLAMATION PROJECTS

	2004-05	2005-06
Federal Funds	22,000,000	22,000,000

(1) **Fund Receipt and Expenditures Estimates:** The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions

and procedures provided in this Act.

6. ENVIRONMENTAL QUALITY COMMISSION

	2004-05	2005-06
General Fund	150,000	150,000

(1) **Administrative Accountability:** The Environmental Quality Commission shall be attached to the Environmental and Public Protection Cabinet's Office of the Secretary, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, may employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

7. KENTUCKY NATURE PRESERVES COMMISSION

	2004-05	2005-06
General Fund	1,049,300	1,049,300
Restricted Funds	304,600	333,100
Federal Funds	70,500	70,500
TOTAL	1,424,400	1,452,900

(1) **Minor Use or Development:** Notwithstanding KRS 146.410 to 146.535, the Kentucky State Nature Preserves Commission may allow a minor use or development upon or near the property boundary of a nature preserve when the minor use or development results in the addition of acreage to the preserve, furthers the goal of encouraging land use adjacent to the preserve which can help protect the character of the preserve, furthers an important public purpose identified by another state or local public agency, and does not substantially or fundamentally alter the character of the preserve.

8. ATHLETIC COMMISSION

	2003-04	2004-05	2005-06
Restricted Funds	23,500	129,700	129,700

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $23,500 in fiscal year 2003-2004 for expenditures related to a possible professional heavyweight boxing match.

9. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND

	2004-05	2005-06
Restricted Funds	11,140,000	11,140,000

10. ALCOHOLIC BEVERAGE CONTROL

	2004-05	2005-06
General Fund	1,380,800	1,380,800
Restricted Funds	4,468,100	4,499,200
TOTAL	5,848,900	5,880,000

(1) **Sale and Distribution of Tobacco Products Enforcement:** Included in the above General Fund appropriation is $260,000 in fiscal year 2004-2005 and $260,000 in fiscal year 2005-2006 to carry out the provisions of KRS 438.337.

11. CHARITABLE GAMING

	2004-05	2005-06
Restricted Funds	3,200,000	3,200,000

(1) **Gross Receipts Fee:** Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2004-2005 and fiscal year 2005-2006 shall be fifty-three one-hundredths of one percent.

12. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION BOARD

	2004-05	2005-06
General Fund	813,000	813,000
Restricted Funds	2,834,300	2,856,400
Federal Funds	540,100	540,100
TOTAL	4,187,400	4,209,500

(1) **Sexual Assault Examinations:** Notwithstanding KRS 216B.400(8), examinations for reported victims of sexual assault shall be paid by the Crime Victims' Compensation Board in a manner consistent with KRS Chapter 346, at a rate determined by the Board. The Board shall reimburse the hospital or sexual assault examination facility as provided in administrative regulations promulgated by the Board.

13. FINANCIAL INSTITUTIONS

	2004-05	2005-06

Restricted Funds	8,672,700	8,826,900

14. HORSE RACING AUTHORITY

	2004-05	2005-06
General Fund	509,700	509,700
Restricted Funds	13,221,600	13,011,400
TOTAL	13,731,300	13,521,100

(1) **Quarter Horses Foaled by Artificial Insemination:** Notwithstanding KRS 230.443, the Kentucky Horse Racing Authority shall deem Quarter horses foaled by artificial insemination eligible to race in dates approved under the provisions of KRS Chapter 230.

15. HOUSING, BUILDINGS AND CONSTRUCTION

	2004-05	2005-06
General Fund	2,296,700	2,296,700
Restricted Funds	13,409,000	13,691,100
TOTAL	15,705,700	15,987,800

16. INSURANCE

	2004-05	2005-06
General Fund (Tobacco)	16,782,600	16,751,700
Restricted Funds	24,535,400	25,332,100
TOTAL	41,318,000	42,083,800

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $16,782,600 in fiscal year 2004-2005 and $16,751,700 in fiscal year 2005-2006 for the Kentucky Access Program.

(2) **Risk-based Capital (RBC):** A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with risk-based capital (RBC) requirements as follows:

(a) For purposes of this section, RBC shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with 806 KAR 38:100;

(b) For the RBC reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the RBC levels shall be defined as follows: 1. "Company Action Level RBC" means the product of two and its Authorized Control Level RBC; 2. "Regulatory Action Level RBC" means the product of one and five-tenths and its Authorized Control Level RBC; 3. "Authorized Control Level RBC" means the product of four-tenths and the RBC after covariance determined under the RBC formula in accordance with the RBC instruction; and 4. "Mandatory Control Level RBC" means the product of seven-tenths and the Authorized Control Level RBC; and

(c) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the RBC requirements of subsection (a) of this section and 806 KAR 38:100 and shall not be eligible to calculate its RBC according to this section.

(3) **Kentucky Access:** Notwithstanding KRS 304.17B-031, during the 2004-2006 biennium, the Secretary of the Environmental and Public Protection Cabinet may seek authorization from the State Budget Director to reallocate excess unbudgeted operating funds generated by the Office of Insurance to Access. Any such funding reallocations that are approved by the State Budget Director will be reported to the Interim Joint Committee on Appropriations and Revenue consistent with the provisions of the appropriations bill.

17. MINES AND MINERALS

	2004-05	2005-06
General Fund	9,035,200	9,035,200
Restricted Funds	1,597,000	2,231,700
Federal Funds	608,100	603,300
TOTAL	11,240,300	11,870,200

(1) **Funds Transfer:** Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will

finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2004-2005 and $850,000 in fiscal year 2005-2006 shall be transferred to Mines and Minerals.

18. PUBLIC ADVOCACY

	2004-05	2005-06
General Fund	25,264,400	25,264,400
Restricted Funds	5,793,000	5,793,000
Federal Funds	1,474,000	1,569,600
TOTAL	32,531,400	32,627,000

(1) **Compensatory Leave Conversion to Sick Leave:** In the event that the Department of Public Advocacy determines that internal budgetary pressures warrant further austerity measures, the Public Advocate is authorized to institute a policy to suspend payment of 50 hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated 240 hours of compensatory time.

19. PUBLIC SERVICE COMMISSION

	2004-05	2005-06
General Fund	11,154,100	11,409,800
Restricted Funds	1,024,000	1,024,000
Federal Funds	249,600	257,300
TOTAL	12,427,700	12,691,100

(1) **Debt Service:** Included in the above General Fund appropriation is $589,000 in fiscal year 2004-2005 and $589,000 in fiscal year 2005-2006 for debt service for previously issued bonds.

(2) **Lapse of General Fund Moneys:** Notwithstanding KRS 278.150(3), $650,000 in fiscal year 2004-2005 and $900,000 in fiscal year 2005-2006 shall lapse to the credit of the General Fund.

(3) **Water Districts and Water Associations**: A water district created pursuant to KRS Chapter 74 and a water association created pursuant to KRS Chapter 273 that undertakes a waterline extension or improvement project shall not be required to obtain a certificate of public convenience and necessity pursuant to KRS 278.020(1) if the water district is a Class A or B utility as defined in the Uniform System of Accounts established by the Public Service Commission, pursuant to KRS 278.220, as the system of accounts prescribed for utilities in Kentucky; and (a) The water line extension or improvement project will not cost in excess of $250,000; (b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring Public Service Commission approval pursuant to KRS 278.300; and (c) The water district will not, as a result of the water line extension or improvement project, increase rates to its customers.

20. TAX APPEALS

	2004-05	2005-06
General Fund	486,100	486,100

21. WORKPLACE STANDARDS

	2004-05	2005-06
General Fund	1,953,800	1,953,800
Restricted Funds	110,187,700	108,072,700
Federal Funds	3,379,700	3,379,700
TOTAL	115,521,200	113,406,200

(1) **Definition of Gainful Occupation:** Notwithstanding KRS 339.210, "gainful occupation" does not include employment of minors by their own parents or persons standing in the place of a parent including a group medical practice in which the parent has any ownership interest.

22. WORKERS' CLAIMS

	2004-05	2005-06
Restricted Funds	14,591,600	14,561,800

23. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

	2004-05	2005-06
Restricted Funds	479,300	447,500

24. WORKERS' COMPENSATION FUNDING COMMISSION

	2004-05	2005-06
Restricted Funds	135,755,800	133,407,200

(1) **Mines and Minerals Budget Supplement:** Notwithstanding KRS 342.122, the Kentucky Workers' Compensation

Funding Commission is authorized to finance a portion of the Environmental and Public Protection Cabinet's Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2004-2005 and $850,000 in fiscal year 2005-2006 shall be transferred to Mines and Minerals.

(2) **Commission Funding:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2004-2005 and fiscal year 2005-2006.

TOTAL - ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

	2003-04	**2004-05**	**2005-06**
General Fund (Tobacco)	-0-	25,782,600	25,751,700
General Fund	-0-	111,772,200	112,027,900
Restricted Funds	23,500	419,031,100	419,118,800
Federal Funds	-0-	72,524,300	72,484,900
TOTAL	23,500	629,110,200	629,383,300

G. FINANCE AND ADMINISTRATION CABINET

Budget Units

1. GENERAL ADMINISTRATION

	2004-05	**2005-06**
General Fund	8,284,600	8,284,600
Restricted Funds	2,649,600	2,649,600
TOTAL	10,934,200	10,934,200

(1) **Affordable Housing Trust Fund:** Included in the above General Fund appropriation is $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 for the Affordable Housing Trust Fund. The Kentucky Housing Corporation shall provide $500,000 in fiscal year 2004-2005 and $500,000 in fiscal year 2005-2006 to match the Affordable Housing Trust Fund from the Kentucky Housing Corporation Housing Assistance Fund.

(2) **Lapse of Excess Gubernatorial Transition Funds:** Unspent gubernatorial transition funds of not less than $110,000 in fiscal year 2003-2004 are directed to be lapsed to the General Fund Surplus Account (KRS 48.700) for appropriation in fiscal year 2003-2004 to the Medicaid Benefits appropriation unit in the Health and Family Services Cabinet in order to increase the amount of Federal Funds able to be matched.

(3) **Office Space for Constitutional Officers:** The Secretary of the Finance and Administration Cabinet shall allocate office space in the State Capitol Building or Capitol Annex to allow all Statewide Constitutional Officers to maintain an office in one of these buildings.

2. OFFICE OF THE CONTROLLER

	2004-05	**2005-06**
General Fund	5,738,600	5,738,600
Restricted Funds	243,200	250,600
Federal Funds	3,250,000	2,250,000
TOTAL	9,231,800	8,239,200

(1) **Social Security Contingent Liability Fund:** Notwithstanding KRS 61.470(4) or any other statute or provision of law to the contrary, no money is appropriated for the Social Security Contingent Liability Fund established by KRS 61.470(4). Any expenditures that may be required by KRS 61.470 are hereby deemed necessary government expenses and shall be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

3. DEBT SERVICE

	2004-05	**2005-06**
General Fund (Tobacco)	6,116,600	6,113,200
General Fund	261,355,000	282,611,600
Road Fund	2,930,000	2,505,000
TOTAL	270,401,600	291,229,800

(1) **New Debt Service:** Included in the above General Fund appropriation is $15,435,000 in fiscal year 2005-2006 to support new bonds as set forth in Part II of this Act for appropriation units within the Finance and Administration Cabinet.

(2) **Tobacco Settlement Funds - Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the

General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

(3) **Bond Proceeds Transfer and Lapse:** There shall be a transfer, in fiscal year 2004-2005, of $8,300,000 from the Bond and Investment Income Account (0200-750-0350) to the Debt Service Fund (0300 fund) which shall be used to pay debt service. As a result of this transfer, at the end of fiscal year 2004-2005, there shall be a lapse to the General Fund in the amount of $8,300,000.

4. **ADMINISTRATION**

	2004-05	2005-06
General Fund	3,347,500	3,347,500
Restricted Funds	7,780,300	7,658,200
Road Fund	283,000	283,000
TOTAL	11,410,800	11,288,700

5. **FACILITIES MANAGEMENT**

	2004-05	2005-06
General Fund	7,475,600	7,475,600
Restricted Funds	28,587,000	28,332,500
TOTAL	36,062,600	35,808,100

(1) **Lieutenant Governor's Mansion Expenses:** Notwithstanding KRS 42.037, the Secretary of the Finance and Administration Cabinet shall expend no state funds for an official residence or for household staff for the Lieutenant Governor, except for expenses necessary to maintain property owned by the Commonwealth.

The Secretary of the Finance and Administration Cabinet is directed to transfer the operation and use of the Lieutenant Governor's Mansion to the Kentucky Historical Society and transfer funding of $100,000 in fiscal year 2004-2005 and $100,000 in fiscal year 2005-2006. The Kentucky Historical Society shall direct the official use of the Lieutenant Governor's Mansion, which shall not be as a residence of the Lieutenant Governor. The Kentucky Historical Society shall also provide appropriate recognition, associated with the Mansion, for Dr. Thomas D. Clark, Kentucky Historian Laureate for Life.

6. **COUNTY COSTS**

	2004-05	2005-06
General Fund	20,211,100	20,211,100
Restricted Funds	1,925,000	1,925,000
TOTAL	22,136,100	22,136,100

(1) **Base Court Revenue:** Notwithstanding KRS 24A.190 to 24A.193, included in the above General Fund appropriation is $0 funding in fiscal year 2004-2005 and $0 funding in fiscal year 2005-2006 for base court revenue.

Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

7. **GOVERNOR'S OFFICE FOR TECHNOLOGY**

	2003-04	2004-05	2005-06
General Fund	-0-	292,500	292,500
Restricted Funds	-0-	56,453,700	56,597,200
Federal Funds	554,000	771,800	628,300
Road Fund	-0-	125,000	125,000
TOTAL	554,000	57,643,000	57,643,000

(1) **Current Year Appropriation:** Included in the above Federal Funds appropriation is $554,000 in fiscal year 2003-2004 to support increased personnel expenditures necessary to implement the Kentucky Landscape Snapshot Project with a federal grant from the National Aeronautics and Space Administration (NASA).

(2) **Expenditure of 911 Emergency Communications System Restricted Fund Receipts:** Notwithstanding KRS 65.760, the governing body of a 911 Emergency Communications System may purchase or repair equipment and supplies, including ambulances, necessary to provide and maintain 911 emergency services. However, only up to 50 percent of the accumulated surplus revenue remaining after meeting all annual obligations under KRS 65.760(3) may be used for this purpose. Any expenditure of accumulated surplus revenue must be approved by the governing body of each party to an interlocal agreement establishing a 911 emergency telephone service.

(3) **Office of Statewide 911 Coordination:** The Office of Statewide 911 Coordination is established within the

Governor's Office for Technology. Notwithstanding KRS 65.7621 to 65.7643, the State Administrator of Commercial Mobile Radio Service (CMRS) Emergency Telecommunications shall serve as the Statewide 911 Coordinator. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The Office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

(4) **Information Technology Contractor Utilization Report:** The Secretary of the Finance and Administration Cabinet or his or her designee shall be responsible for reporting to the Legislative Research Commission on a semiannual basis beginning December 30, 2004, regarding utilization of all information technology professional service procured from state master contracts by all agencies within the Executive Branch.

(5) **Information Technology Contractor Utilization Management and Oversight:** The Secretary of the Finance and Administration Cabinet or his or her designee shall oversee and approve the use of hourly-based information technology contract resources procured from state master contracts by all Executive Branch agencies. The Secretary shall report to the Legislative Research Commission, by December 31, 2004, actions taken to implement the approval and oversight process.

(6) **Information Technology Contractor Utilization Reduction:** The Secretary of the Finance and Administration Cabinet is encouraged to work with the Office of State Budget Director and the Department of Personnel to take necessary actions to minimize the reliance on hourly-based information technology contract resources procured from state master contracts. Should savings to the Commonwealth be adequately documented, the actions may include but not be limited to adjustments to the personnel cap, compensation schedule, and classification structure for information technology classifications.

(7) **Merged Dispatch Funds:** Notwithstanding KRS 65.7631, any Public Safety Answering Point (PSAP) that chooses to consolidate operations after July 15, 1998 shall continue to receive pro rata shares as if each had remained separate and distinct entities.

8. REVENUE

	2004-05	**2005-06**
General Fund (Tobacco)	175,000	175,000
General Fund	67,173,500	68,114,900
Restricted Funds	3,953,000	3,915,900
Road Fund	1,418,000	1,418,000
TOTAL	72,719,500	73,623,800

(1) **Insurance Surcharge Rate:** Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2004-2006 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2003-2004 and 2004-2005 provided by the General Assembly in this Act.

(2) **Road Fund Compliance and Motor Vehicle Property Tax Programs:** The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Department of Revenue and is to be used exclusively for that purpose.

(3) **Delinquent Tax Fund:** Notwithstanding KRS 134.400, the administration of the Delinquent Tax Fund is in Property Valuation. Proceeds shall be deposited to this account, except that the first $100,000 shall be deposited exclusively to the General Fund. The Department of Revenue may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Department of Revenue.

(4) **Tax Compliance and Collection Efforts:** Included in the above General Fund appropriation is $4,007,800 in fiscal year 2004-2005 and $4,181,400 in fiscal year 2005-2006 for personnel, operating costs, and information systems to support compliance and efficiency in collections of delinquent taxes and other amounts owed to the Commonwealth.

(5) **Refund of Sales Tax Paid on Communications Services:** Notwithstanding KRS 139.505, all applicants filing on or after June 1, 2003, for the refundable credit for sales tax paid on communications service shall comply with the following: any business whose interstate communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than $1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Department of Revenue shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Department of Revenue.

(6) Operations of the Department of Revenue Notwithstanding KRS 132.672, 154.12-219, and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

9. PROPERTY VALUATION ADMINISTRATORS

	2004-05	2005-06
General Fund	29,719,600	30,532,600
Restricted Funds	4,760,000	4,760,000
TOTAL	34,479,600	35,292,600

(1) Management of Expenditures: Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	6,291,600	6,288,200
General Fund	-0-	403,598,000	426,609,000
Restricted Funds	-0-	106,351,800	106,089,000
Federal Funds	554,000	4,021,800	2,878,300
Road Fund	-0-	4,756,000	4,331,000
TOTAL	554,000	525,019,200	546,195,500

H. HEALTH AND FAMILY SERVICES CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2004-05	2005-06
General Fund	36,238,500	36,712,500
Restricted Funds	10,579,400	10,494,000
Federal Funds	45,229,700	45,579,400
TOTAL	92,047,600	92,785,900

(1) Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Health and Family Services Cabinet shall maximize Federal Funds for programs within the Cabinet.

(2) Federally Funded Positions: Notwithstanding KRS 18A.010(2) and any provisions of this Act to the contrary, direct service units of the Office of Inspector General, Office of Aging Services, Department for Disability Determination, Department for Community Based Services, Department for Medicaid Services, Department for Mental Health/Mental Retardation Services, and the Department for Public Health shall be authorized to establish and fill such additional positions as are 100 percent federally funded for salary and fringe benefits.

(3) Human Services Transportation Delivery: Notwithstanding KRS 281.014, 281.870, 281.872, or any other statute or provision of law to the contrary, agencies within the former Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

(4) Debt Service: Included in the above General Fund appropriation is $474,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II of this Act.

(5) Prohibited Funds Reallocation: Notwithstanding KRS 48.500 and Part III, Section 31 of this Act, the Secretary for the Cabinet for Health and Family Services shall not reallocate any funds to the General Administration and Program Support or the Medicaid Administration budget units from any other appropriation unit of the Cabinet.

(6) Management and Administration Contracts: The Cabinet for Health and Family Services shall provide the Interim Joint Committee on Appropriations and Revenue a copy of any Request for Proposals, at the time it is issued by either the Cabinet, Department for Medicaid Services, or the Finance and Administration Cabinet, concerning the administration or management of any portion or service of the State Medicaid Program.

2. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2004-05	2005-06
General Fund (Tobacco)	1,455,000	1,455,000
General Fund	16,200,100	17,100,100
Restricted Funds	23,469,300	24,395,300
Federal Funds	10,300,000	10,274,000
TOTAL	51,424,400	53,224,400

(1) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is $450,000 in each fiscal year for Universal Newborn Hearing Screening; $5,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

(2) Lapse of General Fund (Tobacco) Moneys: Notwithstanding KRS 200.151, $49,000 of General Fund (Tobacco) shall lapse at the end of fiscal year 2003-2004 to the credit of the General Fund.

3. MEDICAID SERVICES

a. Administration

	2004-05	2005-06
General Fund	18,028,200	18,028,200
Restricted Funds	18,406,000	18,406,000
Federal Funds	42,147,100	42,147,100
TOTAL	78,581,300	78,581,300

(1) Transfer of Excess Administrative Funds for Medicaid Benefits: If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(a) Establish a new program;
(b) Expand the services of an existing program; or
(c) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

(2) Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Health and Family Services Cabinet shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

(3) Kentucky Independence Plus Through Consumer-Directed Care: Included in the above appropriation is $100,000 in Restricted Funds and $100,000 in Federal Funds in each fiscal year to support four permanent full-time staff to implement the Kentucky Independence Plus through Consumer-Directed Care program.

b. Benefits

	2003-04	2004-05	2005-06
General Fund	110,000	759,655,500	765,065,500
Restricted Funds	-0-	398,643,300	356,133,600
Federal Funds	-0-	2,695,811,100	2,598,571,400
TOTAL	110,000	3,854,109,900	3,719,770,500

(1) Current Year Appropriation: Included in the above General Fund appropriation is $110,000 is fiscal year 2003-2004 to support current services.

(2) Supports for Community Living Slots: Included in the above appropriation is $1,000,000 in Restricted Funds support and $2,302,500 in Federal Funds in fiscal year 2004-2005 to support 75 additional Supports for Community Living slots and $2,500,000 in General Fund support, and $5,723,700 in Federal Funds in fiscal year 2005-2006 to support 150 additional Supports for Community Living slots.

Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

(3) Acquired Brain Injury Waiver Program: Included in the above appropriation is $272,500 in Restricted Funds and $627,500 in Federal Funds in fiscal year 2004-2005 and $304,000 in Restricted Funds and $696,000 in Federal Funds in fiscal year 2005-2006 to support the Acquired Brain Injury Waiver program.

(4) Carry Forward of General Fund Appropriations: Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal years 2003-2004 and 2004-2005 shall not lapse, but shall be carried forward into the next fiscal year.

(5) **Disproportionate Share Hospital Program:** Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

(6) **Hospital Indigent Patient Billing:** Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

(7) **Provider Tax Information:** Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Health and Family Services Cabinet shall include this provision in facilities' annual licensure inspection.

(8) **Quality and Charity Care Trust Fund:** No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Hospital Program for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Health and Family Services Cabinet shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

(9) **Kentucky Children's Health Insurance Program (KCHIP):** The Secretary of the Health and Family Services Cabinet may transfer from the Medicaid Benefits to the KCHIP General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

(10) **Intergovernmental Transfers (IGT's):** Any funds received through an IGT agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary of the Health and Family Services Cabinet shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from IGT's are contingent upon agreement by the parties and, when negotiated, the Secretary for Health and Family Services shall make the appropriations increase requests pursuant to KRS 48.630.

(11) **Child Sexual Abuse Exams:** The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in this section. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department for Medicaid Services may require participating health care providers to meet specific training and experience requirements.

(12) **Medicaid Budget Analysis Reports:** The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

(13) **Medicaid Benefits Budget Deficit:** In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Health and Family Services Cabinet shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, reimbursement rate, or program reductions shall be implemented by the Health and Family Services Cabinet without 30 days' prior written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget

Director. Such actions taken by the Health and Family Services Cabinet shall be reported at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to, in writing in detail, by the Secretary of the Health and Family Services Cabinet within 30 days of such objections. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Health and Family Services Cabinet, the recommendations shall be invalid unless:

(a) They are revised to comply with the objections of the committee; or

(b) The committee is informed, in writing in detail, within 30 days of the committee's objections that a determination has been made not to comply with the objections of the committee.

(14) Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Health and Family Services Cabinet may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid Program or the number of eligibles, or transfer General Funds up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible, or program shall be increased without 30 days' prior written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. Such actions taken by the Health and Family Services Cabinet shall be reported at the next meeting of the Interim Joint Committee on Appropriations. Objections to the actions by the Committee shall be responded to, in writing in detail, by the Secretary of the Health and Family Services Cabinet within 30 days of such objections. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Health and Family Services Cabinet, the recommendations shall be invalid unless:

(a) They are revised to comply with the objections of the committee; or

(b) The committee is informed, in writing in detail, within 30 days of the committee's objections that a determination has been made not to comply with the objections of the committee.

(15) Quarterly Cost Containment Reporting: The Health and Family Services Cabinet shall submit a quarterly report to the Interim Joint Committee on Appropriations and Revenue on cost containment initiatives implemented to reduce costs in the Medicaid program including the actual experience compared to projected savings for each initiative. In addition, this report shall include any anticipated initiatives to be implemented to reduce Medicaid costs, including a projection for savings from each initiative and implementation date. If applicable, the report shall also include a list of anticipated Medicaid program expansions, including projected costs and implementation dates.

(16) Medical Child Support Enforcement: In collaboration with the Department for Community Based Services, the Department for Medicaid Services may implement a pilot program to address the pursuit of funds expended as a result of unenforced medical child support orders. An amount included in the above appropriation not to exceed $125,000 in Restricted Funds and $125,000 in Federal Funds in each fiscal year may be used from Medicaid Benefits in order to provide monetary resources to the county attorneys involved in the pilot program. This project may include a select number of counties which shall be selected based on criteria to be developed by the Department for Medicaid Services and the Department for Community Based Services, and at a minimum shall include an analysis showing that the anticipated return on investment exceeds the cost associated with the pilot program.

4. MENTAL HEALTH AND MENTAL RETARDATION SERVICES

	2004-05	**2005-06**
General Fund (Tobacco)	3,126,800	3,122,700
General Fund	169,783,800	170,173,800
Restricted Funds	182,341,300	180,029,600
Federal Funds	41,157,200	39,480,500
TOTAL	396,409,100	392,806,600

(1) Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Federal Balanced Budget Act of 1997, as amended by the Federal Benefits Improvements and Protection Act of 2000, in the amount of $30,200,000 in fiscal year 2004-2005 and $30,200,000 in fiscal year 2005-2006.

(2) Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses: Notwithstanding KRS 210.504, the Department for Mental Health and Mental Retardation Services shall provide at least $12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504, 210.506, and 210.509, through June 30, 2006. The regional planning councils shall make recommendations for, and the Commission shall develop, a two year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

(3) Debt Service: Included in the above General Fund appropriation in fiscal year 2005-2006 is $390,000 for debt service to support new bonds as set forth in Part II of this Act.

(4) **Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is $900,000 in each fiscal year for substance abuse prevention and treatment.

(5) **Safety Net/Community Care:** Included in the above General Fund appropriation is $2,000,000 in each fiscal year to mend the safety net of behavioral health services, including but not limited to inpatient and outpatient services, partial hospitalization or psychosocial rehabilitation services, emergency services, crisis stabilization services, consultation and education services, and mental retardation services, which are provided by the 14 Regional Mental Health/Mental Retardation Boards. These funds shall be allocated to restore or strengthen core services to patients who have no payor source. Funds shall be distributed to the regions on a per capita basis as flexible funds.

(6) **Jailer Mental Health Screening Training:** Included in the above General Fund appropriation is $275,000 in each fiscal year to continue a training program relating to mental health consultation and education to jails.

The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties recommendations for improvements in identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill.

The training shall continue to be delivered by Regional Mental Health/Mental Retardation Board staff to new jailers and new jail staff, except administrative support, on screening and responding to the needs of inmates with mental illness within six months of employment. Treatment services may also be provided for within this funding allocation.

(7) **Homelessness Prevention Pilot Project:** Included in the above General Fund appropriation is $100,000 in each fiscal year to establish a homelessness prevention pilot project in Jefferson County and Clinton, McCreary, or Wayne County.

(8) **Substance Abuse Treatment Services:** Included in the above General Fund (Tobacco) appropriation is $1,000,000 in each fiscal year for substance abuse treatment services in drug courts, and $1,226,800 in General Fund (Tobacco) support and $111,700 in Federal Funds in fiscal year 2004-2005 and $1,222,700 in General Fund (Tobacco) support and $111,700 in Federal Funds in fiscal year 2005-2006 for substance abuse treatment services through Regional Mental Health/Mental Retardation Boards which is transferred from the abolished Kentucky Agency for Substance Abuse Policy. Funds appropriated for this program unexpended in fiscal year 2004-2005 shall not lapse but shall be carried forward to fiscal year 2005-2006 and utilized for the same purpose.

5. PUBLIC HEALTH

	2004-05	**2005-06**
General Fund (Tobacco)	16,428,000	16,373,000
General Fund	55,641,300	56,356,300
Restricted Funds	52,282,500	50,882,500
Federal Funds	148,601,600	148,592,900
TOTAL	272,953,400	272,204,700

(1) **Debt Service:** Included in the above General Fund appropriation is $715,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II. of this Act

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $7,599,900 in each fiscal year for the Health Access Nurturing Development Services Program; $2,000,000 in each fiscal year for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $900,000 in each fiscal year for the Folic Acid Program; $875,000 in each fiscal year for Early Childhood Mental Health; and $337,500 in fiscal year 2004-2005 and $287,500 in fiscal year 2005-2006 for Early Childhood Oral Health. Also included in the above General Fund (Tobacco) appropriation is $2,715,600 in fiscal year 2004-2005 and $2,710,600 in fiscal year 2005-2006 for the Smoking Cessation Program.

(3) **Childhood Immunizations Program:** Included in the above General Fund appropriation is $1,200,000 in fiscal year 2004-2005 and $1,200,000 in fiscal year 2005-2006 to support the state childhood immunizations program. Notwithstanding KRS 45.229, and any provisions of this Act to the contrary, any General Fund appropriation for this program unexpended in fiscal year 2004-2005 shall not lapse but shall be carried forward to fiscal year 2005-2006 and utilized for services of this program.

(4) **Kentucky AIDS Drug Assistance Program:** Included in the above General Fund appropriation is $180,000 in each fiscal year for funding the Kentucky AIDS Drug Assistance Program (KADAP).

(5) **Lead Poisoning Prevention Services:** Included in the above General Fund appropriation is $100,000 each fiscal year for lead poisoning prevention services.

6. CERTIFICATE OF NEED

	2004-05	**2005-06**
General Fund	117,700	117,700
Restricted Funds	162,900	158,800

TOTAL	280,600	276,500

7. AGING SERVICES

	2004-05	2005-06
General Fund	27,372,100	27,372,100
Restricted Funds	519,400	519,900
Federal Funds	21,317,800	21,254,900
TOTAL	49,209,300	49,146,900

(1) **Local Match Requirements:** Notwithstanding KRS 205.460, entities contracting with the Health and Family Services Cabinet to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Health and Family Services Cabinet shall prescribe the procedures to certify the local match assurance.

8. DISABILITY DETERMINATION SERVICES

	2004-05	2005-06
Restricted Funds	65,800	65,800
Federal Funds	43,643,800	44,692,200
TOTAL	43,709,600	44,758,000

9. COMMUNITY BASED SERVICES

	2004-05	2005-06
General Fund (Tobacco)	8,300,400	8,300,400
General Fund	275,298,100	293,198,100
Restricted Funds	135,166,400	116,471,700
Federal Funds	470,437,700	479,192,500
TOTAL	889,202,600	897,162,700

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $8,120,400 in fiscal year 2004-2005 and $8,120,400 in fiscal year 2005-2006 for the Early Childhood Development Program, and $180,000 in fiscal year 2004-2005 and $180,000 in fiscal year 2005-2006 for Child Advocacy Centers.

TOTAL - HEALTH AND FAMILY SERVICES CABINET

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	29,310,200	29,251,100
General Fund	110,000	1,358,335,300	1,384,124,300
Restricted Funds	-0-	821,636,300	757,557,200
Federal Funds	-0-	3,518,646,000	3,429,784,900
TOTAL	110,000	5,727,927,800	5,600,717,500

I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units

1. JUSTICE OPERATIONS

a. Justice Administration

	2004-05	2005-06
General Fund	7,153,500	7,690,600
Restricted Funds	622,000	508,900
Federal Funds	11,472,900	8,725,400
TOTAL	19,248,400	16,924,900

(1) **Civil Legal Services for Indigents:** Included in the above General Fund appropriation is $1,316,000 in fiscal year 2004-2005 and $1,316,000 in fiscal year 2005-2006 to provide free civil legal services for indigents.

b. Criminal Justice Training

	2004-05	2005-06
Restricted Funds	37,941,400	37,941,400
Federal Funds	2,700,000	2,700,000
TOTAL	40,641,400	40,641,400

(1) **Kentucky Law Enforcement Foundation Program Fund:** Included in the above Restricted Funds appropriation is $36,883,600 in fiscal year 2004-2005 and $36,883,600 in fiscal year 2005-2006 for the Kentucky Law Enforcement Foundation Program Fund.

(2) **Training Incentive Payments:** Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2004-2005 and $3,100 in fiscal year 2005-2006 for training incentive payments for each participant.

c. Juvenile Justice

	2004-05	**2005-06**
General Fund	82,574,100	83,374,100
Restricted Funds	12,200,000	12,193,900
Federal Funds	16,989,000	15,069,000
TOTAL	111,763,100	110,637,000

(1) **Juvenile Justice Grant:** Included in the above General Fund appropriation is $35,000 in fiscal year 2004-2005 and $35,000 in fiscal year 2005-2006 to support the Survivors II Program in Fayette County. General Fund moneys provided for the Survivors II Grant shall not be taken from any moneys or grants that would otherwise be awarded to Prevention Council funds of Lexington-Fayette County nor any other Prevention Council funds and shall come from the Support Services unit of the Juvenile Justice Budget.

(2) **Gateway Juvenile Diversion Center:** Included in the above General Fund appropriation is $350,000 in fiscal year 2004-2005 and $350,000 in fiscal year 2005-2006 for the operation of the Gateway Juvenile Diversion Center.

(3) **Mary Kendall Homes:** Included in the above General Fund appropriation is $300,000 in fiscal year 2004-2005 and $300,000 in fiscal year 2005-2006 for the operation of the Mary Kendall Homes.

(4) **Madison County Juvenile Detention:** Madison County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Madison County juvenile detention facility may remain open to hold juveniles from Madison County until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3).

(5) **Clark County Juvenile Detention:** Clark County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Clark County juvenile detention facility may remain open to hold juveniles from Clark County and other counties until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3).

d. State Police

	2004-05	**2005-06**
General Fund	60,719,500	61,248,500
Restricted Funds	8,852,700	8,774,000
Federal Funds	13,814,700	13,444,700
Road Fund	50,000,000	50,000,000
TOTAL	133,386,900	133,467,200

(1) **Call to Extraordinary Duty:** There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **State Police Authorized Strength:** The Kentucky State Police sworn officer authorized strength, as defined in KRS 16.010, is 1,070.

(3) **Debt Service Payments:** Included in the above General Fund appropriation is $529,000 in fiscal year 2005-2006 to provide for debt service to support new bonds as set forth in Part II of this Act.

(4) **Executive Security Detail for Lieutenant Governor:** The State Police shall not provide executive security or transportation to the Lieutenant Governor unless the Commissioner of the Department of State Police makes a determination that specific security measures are warranted or the Governor allocates executive security to the Lieutenant Governor from the current complement of the Kentucky State Police sworn officers assigned directly to the Governor. The Department of State Police shall report to the Interim Joint Committee on Appropriations and Revenue at the end of each quarter of each fiscal year, the expenditure of any moneys on security for the Governor and for the Lieutenant Governor.

(5) **Boyd County Crime Lab:** The crime lab and its operations located in Boyd County, if moved from its current location, shall be relocated within Boyd County.

(4) **Body Armor:** Notwithstanding KRS 16.220(3), funds from the proceeds of firearm sales shall be used to purchase body armor for State Police Cadets. The remaining funds shall be utilized by the Department for Local Government according to

KRS 16.220(3).

TOTAL - JUSTICE OPERATIONS

	2004-05	2005-06
General Fund	150,447,100	152,313,200
Restricted Funds	59,616,100	59,418,200
Federal Funds	44,976,600	39,939,100
Road Fund	50,000,000	50,000,000
TOTAL	305,039,800	301,670,500

2. CORRECTIONS

a. Corrections Management

	2004-05	2005-06
General Fund	15,624,800	16,381,500
Restricted Funds	13,294,800	13,294,800
Federal Funds	921,600	50,000
TOTAL	29,841,200	29,726,300

(1) Debt Service: Included in the above General Fund appropriation is $431,000 in fiscal year 2005-2006 to provide for debt service to support new bonds as set forth in Part II of this Act.

(2) Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties recommendations for improvements in identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill.

The training shall continue to be delivered by Regional Mental Health/Mental Retardation Board staff to new jailers and new jail staff, except administrative support, on screening and responding to the needs of inmates with mental illness within six months of employment. Treatment services may also be provided for within this funding allocation.

b. Adult Correctional Institutions

	2004-05	2005-06
General Fund	195,496,400	195,674,600
Restricted Funds	5,609,000	5,609,000
Federal Funds	315,200	315,200
TOTAL	201,420,600	201,598,800

(1) Placement of Adult Inmates: No adult inmates except those assigned to and housed in county jails pursuant to KRS 532.100, and those inmates necessary to meet the minimum capacity requirements under contracts currently in effect for the operation of the Marion Adjustment Center and the Lee Adjustment Center, shall be housed in privately owned and operated correctional facilities so long as space is available in state-owned correctional facilities.

(2) Renewal of Privatization Contracts: No contract currently in effect for the operation of a prison authorized under the provisions of KRS 197.500 to 197.540 shall be renewed if beds in state-owned facilities sufficient to house the inmate population provided for under that contract are available at the time of the contract renewal.

(3) Privatization of Services: No action shall be taken for privatization of any service performed for or at an adult correctional facility or operations of an entire adult correctional facility that were not in effect on the effective date of this Act unless this Act expressly authorizes such action.

c. Little Sandy Correctional Complex in Elliott County

	2004-05	2005-06
General Fund	10,412,800	12,107,600

(1) Little Sandy Correctional Complex in Elliott County: Included in the above General Fund appropriation is $10,412,800 in fiscal year 2004-2005 and $12,107,600 in fiscal year 2005-2006 for the operation of the Little Sandy Correctional Complex in Elliott County. The operation of the Little Sandy Correctional Complex in Elliott County, including any service performed for or at the Correctional Complex, shall not be contracted to a private vendor unless those services are currently provided through a contract at another state-owned and operated adult correctional institution in Kentucky. Notwithstanding any other provision of this Act to the contrary, no General Fund appropriations provided to the Little Sandy Correctional Complex in Elliott County shall be transferred to other appropriation or allotment units, and funds specified above shall be expended exclusively for the state operation of the Little Sandy Correctional Complex in Elliott County. Notwithstanding KRS 45.229, any funds remaining at the end of fiscal year 2004-05 from the General Fund appropriation provided to the Little Sandy Correctional Complex in Elliott County shall not lapse and shall be carried forward into fiscal year 2005-2006 for the same purpose.

d. Community Services and Local Facilities

	2004-05	2005-06
General Fund	82,654,200	86,290,500
Restricted Funds	371,000	371,000
TOTAL	83,025,200	86,661,500

(1) **Probation and Parole Credit:** Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354, or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

(2) **Excess Local Jail Per Diem Costs:** In the event that actual local jail per diem payments exceed the amounts provided to support the budgeted average daily population of state felons in county jails for fiscal year 2004-2005 and fiscal year 2005-2006, the payments shall be deemed necessary governmental expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue. Notwithstanding any other provision of this Act to the contrary, no General Fund appropriations to the Community Services and Local Facilities appropriation unit shall be transferred to other appropriation units and shall be expended exclusively for purposes currently assigned within this appropriation unit.

(3) **Probation and Parole Salary Improvement Plan:** In accordance with KRS 196.076(1) to (8), funding is provided for the Probation and Parole Salary Improvement Program.

e. Local Jail Support

	2004-05	2005-06
General Fund	15,276,100	15,276,100

(1) **Inmate Medical Care Expenses:** Included in the above General Fund appropriation is $931,100 in fiscal year 2004-2005 and $931,100 in fiscal year 2005-2006 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $295,900 in fiscal year 2004-2005 and $295,900 in fiscal year 2005-2006 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2004-05	2005-06
General Fund	319,464,300	325,730,300
Restricted Funds	19,274,800	19,274,800
Federal Funds	1,236,800	365,200
TOTAL	339,975,900	345,370,300

3. VEHICLE ENFORCEMENT

	2004-05	2005-06
Restricted Funds	329,200	329,200
Federal Funds	3,614,800	3,787,100
Road Fund	12,215,700	12,518,100
TOTAL	16,159,700	16,634,400

TOTAL - JUSTICE AND PUBLIC SAFETY CABINET

	2004-05	2005-06
General Fund	469,911,400	478,043,500
Restricted Funds	79,220,100	79,022,200
Federal Funds	49,828,200	44,091,400
Road Fund	62,215,700	62,518,100
TOTAL	661,175,400	663,675,200

J. POSTSECONDARY EDUCATION

Budget Units

1. COUNCIL ON POSTSECONDARY EDUCATION

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	5,431,300	5,421,300
General Fund	4,000,000	113,067,900	150,126,100
Restricted Funds	-0-	2,677,800	1,468,900
Federal Funds	788,800	19,099,400	19,099,400
TOTAL	4,788,800	140,276,400	176,115,700

(1) **Current Year Appropriations:** Included in the above General Fund appropriation is $4,000,000 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund and included in the above Federal Funds appropriation is $788,800 in fiscal year 2003-2004 for the GEAR UP Program.

(2) **Debt Service:** Included in the above General Fund appropriation for the Research Challenge Trust Fund is $3,815,000 in fiscal year 2005-2006 for debt service to support the Research related capital project appropriations authorized in Part II, Capital Projects Budget, of this Act.

Included in the above General Fund appropriation for the Physical Facilities Fund is $23,635,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act, for Postsecondary Education institutions.

(3) **Carry Forward of General Fund Appropriations:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal years 2003-2004 and 2004-2005 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal years 2003-2004 and 2004-2005 to the Science and Technology Funding Program shall not lapse.

(4) **Strategic Investment and Incentive Trust Funds Interest Income:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $820,000 in fiscal year 2004-2005 and $393,900 in fiscal year 2005-2006 shall be transferred from Strategic Investment and Incentive Trust Funds included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: $100,000 in fiscal year 2004-2005 for the Contract Spaces Program, $105,500 in each year of the biennium for the Minority Student College Preparation program, $188,400 in each year of the biennium for the Southern Regional Board Doctoral Scholars program, and $100,000 in each year of the biennium for the P-16 Council/Early Math Testing programs, and $326,100 in fiscal year 2004-2005 for the Knowledge-Based Economy Academic program.

(5) **Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(6) **Kentucky Science and Technology Corporation:** Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the Commissioner for the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

(7) **Tuition Affordability:** The Council on Postsecondary Education should endeavor to minimize tuition increases to the extent possible and maintain Kentucky's affordability in providing postsecondary education for Kentuckians.

(8) **Past Enrollment Growth Funding:** Included in the above General Fund appropriation is $5,000,000 in fiscal year 2005-2006 to be allocated by the Council on Postsecondary Education among the postsecondary education institutions to rebalance the base funding of the institutions in the context of significant and disproportionate student enrollment growth over the past several years.

(9) **Tuition-Setting Process:** The Council on Postsecondary Education shall implement a tuition-setting process that includes an on-campus hearing, conducted by the institution's board of trustees which provides adequate public notification, and an annual review of each institution's tuition rate proposal. In addition, the Council on Postsecondary Education shall review all existing and future reciprocity agreements among the states to ensure that appropriations to Kentucky postsecondary education institutions are not used to subsidize out-of-state residents. The Council on Postsecondary Education shall provide annually, to the Strategic Committee on Postsecondary Education, a report sufficient to ensure that the oversight responsibility assigned in this section is carried out.

(10) **Secretary of the Education Cabinet:** Notwithstanding KRS 12.020, the Council on Postsecondary Education is attached to the Office of the Secretary of the Education Cabinet for the purpose of dissemination of information only, and the Secretary of the Education Cabinet shall not have any authority over the functions, personnel, funds, equipment, facilities, or records of the Council on Postsecondary Education during the 2004-2006 biennium.

(11) Employment in Postsecondary Institutions: Notwithstanding KRS 48.310, the following statute shall be amended as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 164.360 is amended to read as follows:

(1) (a) Each board of regents for the universities may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Community and Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed at an institution where his relative serves on the board of regents for that institution***, unless that person has been employed for at least twelve (12) months prior to the regent's appointment to the board***.

(3) Each board may remove the president of the university or Kentucky Community and Technical College System, and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2004-05	2005-06
General Fund (Tobacco)	900,000	900,000
General Fund	73,953,400	88,831,600
Restricted Funds	102,846,700	104,962,300
Federal Funds	1,714,900	1,726,000
TOTAL	179,415,000	196,419,900

(1) College Access Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $45,442,900 for the College Access Program in fiscal year 2004-2005 and $54,763,400 in fiscal year 2005-2006.

(2) Kentucky Tuition Grant Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $22,975,500 for the Kentucky Tuition Grant Program in fiscal year 2004-2005 and $28,470,000 in fiscal year 2005-2006.

(3) Teacher Scholarship Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation for the Teacher Scholarship Program is $1,681,600 in fiscal year 2004-2005 and $1,681,600 in fiscal year 2005-2006.

(4) Kentucky's Affordable Prepaid Tuition (KAPT): Included in the above Restricted Funds appropriation is $742,700 in fiscal year 2004-2005 and $841,400 in fiscal year 2005-2006 for the administration and marketing of the Kentucky's Affordable Prepaid Tuition Program.

(5) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is $900,000 in fiscal year 2004-2005 and $900,000 in fiscal year 2005-2006 for Early Childhood Scholarships.

(6) Commonwealth Postsecondary Education Prepaid Tuition Trust Fund: Notwithstanding KRS 393.015, no abandoned property cash proceeds shall be made available for support of the Commonwealth Postsecondary Education Prepaid Tuition Trust during fiscal biennium 2004-2006.

Annually, the Kentucky Higher Education Authority shall have the actuarial soundness of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund evaluated by a nationally recognized actuary and shall determine whether additional assets are necessary to defray the obligations of the Fund. If, after the Authority sets the price for contracts, circumstances arise that the executive director determines necessitate an additional evaluation of the actuarial soundness of the Fund, the executive director shall have a nationally recognized actuary conduct the necessary evaluation. If the assets of the Fund are insufficient to ensure the actuarial soundness of the Fund, the Authority shall adjust the price of subsequent purchases of contracts to the extent necessary to help restore the actuarial soundness of the Fund. If at any time the adjustment is likely, in the opinion of the Authority, to diminish the marketability of contracts to an extent that the continued sale of the contracts likely would not restore the actuarial soundness of the Fund and external economic factors continue to negatively impact the soundness of the program, the Authority may suspend sales, either permanently or temporarily, of contracts. During any suspension, the authority shall continue to service existing contract accounts.

3. EASTERN KENTUCKY UNIVERSITY

	2003-04	2004-05	2005-06

General Fund	-0-	71,047,200	72,888,300
Restricted Funds	394,200	99,016,500	108,857,500
Federal Funds	-0-	45,655,400	47,929,900
TOTAL	394,200	215,719,100	229,675,700

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $394,200 in fiscal year 2003-2004 to be expended for general operating expenses and purposes specific to grants and contracts.

(2) **Debt Service:** Included in the above General Fund appropriation is $3,311,200 in fiscal year 2004-2005 and $3,848,000 in fiscal year 2005-2006 for debt service for previously issued bonds.

(3) **University Farm**: Included in the above General Fund appropriation is $200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

4. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM (KCTCS)

	2003-04	2004-05	2005-06
General Fund	-0-	181,289,900	181,315,700
Restricted Funds	-0-	195,586,100	217,738,000
Federal Funds	30,071,300	114,023,700	129,987,000
TOTAL	30,071,300	490,899,700	529,040,700

(1) **Current Year Appropriation:** Included in the above Federal Funds appropriation is $30,071,300 in fiscal year 2003-2004 to be expended for specific federal grants and contracts purposes.

(2) **Debt Service:** Included in the above General Fund appropriation is $6,008,100 in fiscal year 2004-2005 and $5,987,100 in fiscal year 2005-2006 for debt service for previously issued bonds.

(3) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is $24,300,500 in fiscal year 2004-2005 and $25,198,700 in fiscal year 2005-2006 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be $3,100 in fiscal year 2004-2005 and $3,100 in fiscal year 2005-2006. Notwithstanding KRS 95A.200 to 95A.265, an additional $1,000,000 each year from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities.

(4) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, $500,000 is provided each fiscal year of the 2004-2006 fiscal biennium for the Firefighters Training Center Fund.

(5) **Postsecondary Workforce Training Program:** Included in the above General Fund appropriation is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program to be used for worker training programs. These funds shall be used specifically to meet the customized workforce training needs of individual companies or consortia of companies.

(6) **Retirement Issues:** Kentucky Community Technical College System shall work with the Kentucky Employees Retirement System to resolve issues concerning Kentucky Community Technical College System employees that may be covered by the Kentucky Employees Retirement System and shall report the resolution of issues to the Interim Joint Committee on Appropriations and Revenue.

(7) **Salary Parity:** Notwithstanding KRS 164.5805 and 164.5807 the Kentucky Community and Technical College System shall place the highest priority on distributing pay raises in a fair and equitable manner to all employees.

5. KENTUCKY STATE UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	23,414,900	23,296,000
Restricted Funds	-0-	14,176,500	14,176,500
Federal Funds	1,528,600	13,259,000	13,259,000
TOTAL	1,528,600	50,850,400	50,731,500

(1) **Current Year Appropriation:** Included in the above Federal Funds appropriation is $1,528,600 in fiscal year 2003-2004 to be expended for specific federal grants and contracts purposes.

(2) **Debt Service:** Included in the above General Fund appropriation is $1,664,900 in fiscal year 2004-2005 and $873,500 in fiscal year 2005-2006 for debt service for previously issued bonds.

6. MOREHEAD STATE UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	41,550,300	41,806,700
Restricted Funds	4,942,700	58,397,300	58,585,200
Federal Funds	-0-	36,752,900	36,674,500

TOTAL	4,942,700	136,700,500	137,066,400

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $4,942,700 in fiscal year 2003-2004 to be expended for general operating expenses and purposes specific to grants and contracts.

(2) **University Farm:** Included in the above General Fund appropriation is $200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

(3) **Debt Service:** Included in the above General Fund appropriation is $1,403,600 in fiscal year 2004-2005 and $1,411,200 in fiscal year 2005-2006 for debt service for previously issued bonds.

7. MURRAY STATE UNIVERSITY

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	50,203,000	51,434,200
Restricted Funds	3,890,100	60,392,600	64,150,700
Federal Funds	-0-	13,393,300	13,393,300
TOTAL	3,890,100	123,988,900	128,978,200

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $3,890,100 in fiscal year 2003-2004 to be expended for general operating expenses and purposes specific to grants and contracts.

(2) **Debt Service:** Included in the above General Fund appropriation is $1,908,400 in fiscal year 2004-2005 and $1,909,600 in fiscal year 2005-2006 for debt service for previously issued bonds.

(3) **University Farm:** Included in the above General Fund appropriation is $200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

8. NORTHERN KENTUCKY UNIVERSITY

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	45,068,500	45,823,600
Restricted Funds	13,226,200	92,525,000	101,001,000
Federal Funds	3,461,600	11,130,700	11,130,700
TOTAL	16,687,800	148,724,200	157,955,300

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $13,226,200 in fiscal year 2003-2004 to be expended for general operating expenses and purposes specific to grants and contracts. Included in the above Federal Funds appropriation is $3,461,600 in fiscal year 2003-2004 to be expended for specific federal grants and contracts purposes.

(2) **Debt Service:** Included in the above General Fund appropriation is $4,974,500 in fiscal year 2004-2005 and $4,731,700 in fiscal year 2005-2006 for debt service for previously issued bonds.

9. UNIVERSITY OF KENTUCKY

	2004-05	**2005-06**
General Fund	303,896,200	306,864,200
Restricted Funds	957,076,400	995,223,100
Federal Funds	170,696,000	175,533,600
TOTAL	1,431,668,600	1,477,620,900

(1) **Debt Service:** Included in the above General Fund appropriation is $7,143,500 in fiscal year 2004-2005 and $7,129,900 in fiscal year 2005-2006 for debt service for previously issued bonds for the University of Kentucky.

(2) **Lexington Community College:** Included in the above General Fund appropriation is $13,060,600 in fiscal year 2004-2005 and $13,060,600 in fiscal year 2005-2006 to support the operations of the Lexington Community College, of which $738,800 in fiscal year 2004-2005 and $742,500 in fiscal year 2005-2006 is for debt service for previously issued bonds.

Included in the above Restricted Funds appropriation is $17,871,800 in fiscal year 2004-2005 and $18,971,600 in fiscal year 2005-2006 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $8,877,300 in fiscal year 2004-2005 and $8,937,600 in fiscal year 2005-2006 to support the operations of the Lexington Community College.

(3) **Ovarian Cancer:** Notwithstanding KRS 164.7911 to 164.7927, General Fund (Tobacco) dollars in the amount of $775,000 each fiscal year shall be allotted from the Research Challenge Trust Fund's Lung Cancer Research Program to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

(4) **Robinson Forest Scholars:** Included in the above General Fund appropriation is an additional $500,000 each year of the biennium for the Robinson Forest Scholars. In the allocation of institutional resources for scholarships, the Robinson Forest

Scholars shall be given the highest priority.

10. UNIVERSITY OF LOUISVILLE

	2003-04	2004-05	2005-06
General Fund	-0-	172,263,200	174,188,800
Restricted Funds	18,289,400	357,507,500	390,008,200
Federal Funds	22,392,400	80,500,500	87,818,700
TOTAL	40,681,800	610,271,200	652,015,700

(1) **Current Year Appropriations:** Included in the above Restricted Funds appropriation is $18,289,400 in fiscal year 2003-2004 to be expended for general operating expenses and purposes specific to grants and contracts. Included in the above Federal Funds appropriation is $22,392,400 in fiscal year 2003-2004 to be expended for specific federal grants and contracts purposes.

(2) **Debt Service:** Included in the above General Fund appropriation is $11,142,500 in fiscal year 2004-2005 and $11,182,900 in fiscal year 2005-2006 for debt service for previously issued bonds.

(3) **Quality and Charity Care Trust Agreement:** Also included in the above General Fund appropriation is $17,693,200 in fiscal year 2004-2005 and $18,070,100 in fiscal year 2005-2006 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal years 2003-2004 and 2004-2005 shall not lapse.

11. WESTERN KENTUCKY UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	68,878,400	70,348,900
Restricted Funds	19,323,900	126,586,000	138,009,000
Federal Funds	-0-	35,600,000	39,071,000
TOTAL	19,323,900	231,064,400	247,428,900

(1) **Current Year Appropriation:** Included in the above Restricted Funds appropriation is $19,323,900 in fiscal year 2003-2004 to be expended for general operating expenses and purposes specific to grants and contracts.

(2) **Debt Service:** Included in the above General Fund appropriation is $3,181,400 in fiscal year 2004-2005 and $3,202,200 in fiscal year 2005-2006 for debt service for previously issued bonds.

(3) **University Farm:** Included in the above General Fund appropriation is $200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

TOTAL - POSTSECONDARY EDUCATION

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	6,331,300	6,321,300
General Fund	4,000,000	1,144,632,900	1,206,924,100
Restricted Funds	60,066,500	2,066,788,400	2,194,180,400
Federal Funds	58,242,700	541,825,800	575,623,100
TOTAL	122,309,200	3,759,578,400	3,983,048,900

K. TRANSPORTATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND SUPPORT

	2004-05	2005-06
Restricted Funds	19,307,200	23,542,000
Road Fund	66,655,900	67,240,200
TOTAL	85,963,100	90,782,200

(1) **Biennial Highway Construction Programs:** The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2004-2006 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2006-2007 through fiscal year 2009-2010 as identified by the 2004 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2004 Regular Session of the General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2004-2006 Road Fund resources for a project designated as a State Project in the fiscal year 2006-2007 through fiscal year 2009-2010 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2004-2006 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2), any project additions or modifications that the 2004 General Assembly may make to the fiscal year 2005-2010 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2005-2010 Recommended Six Year Road Plan as submitted by the Executive Branch.

(2) **Debt Service:** Included in the above Road Fund appropriation is $7,317,300 in fiscal year 2004-2005 and $7,328,100 in fiscal year 2005-2006 for debt service on previously authorized bonds for the new Transportation Cabinet office building and parking structure.

(3) **Adopt-A-Highway Litter Program:** The Transportation Cabinet and Environmental and Public Protection Cabinet may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

(4) **Transportation Cabinet Office Building:** The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

(5) **Child Sexual Abuse License Plate Revenue:** Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victims' license plates. Any revenue received from the sale or renewal of those plates in excess of actual costs shall be transferred to the Child Victims' Trust Fund on an annual basis.

2. **AIR TRANSPORTATION**

	2004-05	**2005-06**
Restricted Funds	5,500,000	5,500,000
Federal Funds	15,000	9,700
TOTAL	5,515,000	5,509,700

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

(2) **Certified Air Carriers and Cap on Sales and Use Tax:** The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the 12-month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

(3) **Bluegrass Field Airport:** No appropriations to the Air Transportation budget unit shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

3. **DEBT SERVICE**

	2004-05	**2005-06**
Road Fund	128,013,500	149,005,000

(1) **Toll Road Lease-Rental Payments:** Included in the above Road Fund appropriation is $7,928,800 in fiscal year 2004-2005 and $7,815,500 in fiscal year 2005-2006 for toll road lease-rental payments.

(2) **Resource Recovery Road Lease-Rental Payments:** Included in the above Road Fund appropriation is $38,831,600 in fiscal year 2004-2005 and $38,828,600 in fiscal year 2005-2006 for Resource Recovery Road lease-rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

(3) Economic Development Road Lease-Rental Payments: Included in the above Road Fund appropriation is $69,353,100 in fiscal year 2004-2005 and $78,525,900 in fiscal year 2005-2006 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Kentucky Turnpike Authority.

(4) Economic Development Bond Funds: Included in the above Road Fund appropriation is $11,900,000 in fiscal year 2004-2005 and $23,835,000 in fiscal year 2005-2006 for Economic Development Road lease-rental payments to the Turnpike Authority of Kentucky relating to projects financed by $250,000,000 in Economic Development Road Revenue Bonds hereby authorized by the General Assembly to be issued in the 2004-2006 fiscal biennium for payment of the cost of the Economic Development Road Projects.

(5) Excess Lease-Rental Payments: Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Kentucky Turnpike Authority shall be transferred to the State Construction account.

(6) Debt Payment Acceleration Fund Account: Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2004-2006 fiscal biennium.

4. HIGHWAYS

	2004-05	2005-06
Restricted Funds	86,858,800	157,222,100
Federal Funds	662,974,700	678,579,900
Road Fund	622,936,700	626,790,300
Bond Funds	250,000,000	-0-
TOTAL	1,622,770,200	1,462,592,300

(1) Debt Service: Included in the above Federal Funds appropriation is $15,842,500 in fiscal year 2004-2005 and $15,838,300 in fiscal year 2005-2006 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) bonds.

(2) State Supported Construction Programs: Included in the above Road Fund appropriation is $345,953,600 in fiscal year 2004-2005 and $342,213,300 in fiscal year 2005-2006 for the State Supported Construction Program.

(3) State Resurfacing Program: Included in the State Supported Construction Program is $67,320,000 in fiscal year 2004-2005 and $67,320,000 in fiscal year 2005-2006 from the Road Fund for the State Resurfacing Program.

(4) Specialized Contracts Account: Included in the State Supported Construction Program is $100,000 in fiscal year 2004-2005 and $100,000 in fiscal year 2005-2006 from the Road Fund for the Specialized Contracts Account.

(5) Biennial Highway Construction Program: Included in the State Supported Construction Program is $264,033,600 in fiscal year 2004-2005 and $260,293,300 in fiscal year 2005-2006 from the Road Fund for state construction projects in the fiscal biennium 2004-2006 Biennial Highway Construction Program. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 to support the Kentucky Pride Fund created in KRS 224.43-505.

(6) Highway Construction Contingency Account: Included in the State Supported Construction Program is $14,500,000 in fiscal year 2004-2005 and $14,500,000 in fiscal year 2005-2006 for the Highway Construction Contingency Account. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 to support the Kentucky Pride Fund created in KRS 224.43-505. Included in the above Road Fund appropriation is $2,000,000 in each fiscal year to be deposited to the Industrial Road Access Account within the Transportation Cabinet. The Industrial Road Access Account funds are designated to be used solely by the Secretary of the Economic Development Cabinet. These funds may be expended, encumbered, or committed only upon the direction of the Secretary of the Economic Development Cabinet to the Secretary of the Transportation Cabinet. The Secretary of the Economic Development Cabinet may request from the Secretary of the Transportation Cabinet additional funds to be deposited to the Industrial Road Access Account if the funds are necessary to meet specific economic development opportunities in a local community. Any funds not expended from the Industrial Road Access Account prior to June 30, 2005, shall not lapse to the State Highway Construction Program but will remain in the Industrial Road Access Account and carry forward into fiscal year 2005-2006.

(7) 2004-2006 Biennial Highway Construction Plan: Projects in the enacted 2002-2004 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2004-2006 fiscal biennium.

(8) Kentucky Transportation Center: Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2004-2005 and $290,000 in fiscal year 2005-2006 for the Kentucky Transportation Center.

(9) New Highway Equipment Purchases: Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2004-2005 and $1,500,000 in fiscal year 2005-2006 from the sale of surplus equipment to purchase new highway equipment.

(10) State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys or toll credits to match federal highway moneys in the event that unanticipated additional Federal Funds are provided to Kentucky and the state match appropriations have been exhausted.

(11) **Excess Debt Service/Lease-Rental Appropriations:** Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

(12) **Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2004-2006 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four Year Preconstruction Program.

(13) **Demonstration Projects:** The Transportation Cabinet is authorized to select up to five design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project.

(14) **Road Fund Cash Management:** The Secretary of the Transportation Cabinet is authorized to continue the cash management to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2004-2006 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

(15) **Biennial Highway Construction Program:** In the event that federally funded projects contained in the enacted fiscal biennium 2004-2006 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional Federal Funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to ensure that the Commonwealth makes full use of all available Federal Funds.

(16) **Grant Anticipation Revenue Vehicle (GARVEE) Bonds:** Included in the above Restricted Funds appropriation is $23,000,000 in fiscal year 2004-2005 and $93,000,000 in fiscal year 2005-2006 for GARVEE Bond Funds. If project requirements or market conditions warrant issuance of the entire $116,000,000 GARVEE bond issue prior to fiscal year 2005-2006, that authority is approved, subject to the Federal Funds debt service appropriations contained in this section.

(17) **Road Fund Bonds:** The above Economic Development Bond Funds appropriation shall be used to fund projects contained within the 2004-2006 fiscal years of the Six Year Road Plan.

(18) **Miscellaneous Road Fund Projects:**

Access Points: The Transportation Cabinet shall grant the Woodford County Fire Department an Encroachment Permit for emergency vehicles to enter and exit directly onto US 421 from the Midway Fire Station.

The Transportation Cabinet shall extend access by permit about 1,500 feet north of KY 911 along the proposed US 41A project in Christian County.

5. JUDGMENTS

(1) **Payment of Judgments:** Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

(2) Carry Forward **of Funds:** Notwithstanding KRS 45.229, any funds not expended by June 30, 2004, shall not lapse and shall carry forward through June 30, 2005, shall not lapse and shall carry forward through June 30, 2006.

6. PUBLIC TRANSPORTATION

	2004-05	2005-06
General Fund	4,753,400	4,753,400
Restricted Funds	500,000	508,900
Federal Funds	27,227,600	27,230,900
TOTAL	32,481,000	32,493,200

(1) **Human Services Transportation Delivery Program:** Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870, 281.872, 281.873, 281.874, 281.875, 281.876, 281.877, 281.878, and 281.879.

(2) **Nonpublic School Transportation:** Included in the above General Fund Appropriation in $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 for nonpublic school transportation.

(3) **Toll Credits:** The Transportation Cabinet is authorized to use Toll Credits to match federal funds for transit system's capital grants.

7. REVENUE SHARING

	2004-05	2005-06
Road Fund	228,298,300	231,976,100

(1) **County Road Aid Program Center:** Included in the above Road Fund appropriation is $86,421,800 in fiscal year 2004-2005 and $87,821,800 in fiscal year 2005-2006 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amounts have been reduced by $38,000 in fiscal year 2004-2005 and $38,000 in fiscal year 2005-2006 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

(2) **Rural Secondary Program:** Included in the above Road Fund appropriation is $104,839,700 in fiscal year 2004-2005 and $106,538,000 in fiscal year 2005-2006 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amounts have been reduced by $46,000 in fiscal year 2004-2005 and $46,000 in fiscal year 2005-2006 which has been appropriated to the Department of Highways appropriation unit for the support of the Kentucky Transportation Center.

(3) **Municipal Road Aid Program:** Included in the above Road Fund appropriation is $36,363,300 in fiscal year 2004-2005 and $36,952,300 in fiscal year 2005-2006 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amounts have been reduced by $16,000 in fiscal year 2004-2005 and $16,000 in fiscal year 2005-2006 which has been appropriated to the Department of Highways appropriation unit for the support of the Kentucky Transportation Center.

(4) **Energy Recovery Road Fund:** Included in the above Road Fund appropriation is $673,500 in fiscal year 2004-2005 and $664,000 in fiscal year 2005-2006 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

8. VEHICLE REGULATION

	2004-05	2005-06
Restricted Funds	3,868,000	4,040,400
Federal Funds	842,700	894,700
Road Fund	16,084,000	16,148,000
TOTAL	20,794,700	21,083,100

(1) **Motorcycle Education Program:** Notwithstanding KRS 186.890(1) and (2), all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs for other programs or budget units within the Transportation Cabinet shall be deducted from the Motorcycle Safety Education Program. The Transportation Cabinet shall report biennially to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balances. In addition, the Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.

TOTAL - TRANSPORTATION CABINET

	2004-05	2005-06
General Fund	4,753,400	4,753,400
Restricted Funds	116,034,000	190,813,400
Federal Funds	691,060,000	706,715,200
Road Fund	1,061,988,400	1,091,159,600
TOTAL	2,123,835,800	1,993,441,600

PART II

CAPITAL PROJECTS BUDGET

(1) **Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2004-2006 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) **Expiration of Existing Line-Item Capital Construction Projects:** All appropriations to existing line-item capital construction projects expire on June 30, 2004, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2004; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (d) Any capital construction project authorized pursuant to actions approved by the 2003 General Assembly in House Bill 269 (2003 Ky. Acts ch. 156, Part II, R. Coal Severance Tax Projects), unless expressly reauthorized or reallotted in this Act. Any capital construction project authorized pursuant to actions approved by the 2003 General Assembly in House Bill 269 (2003 Ky. Acts ch. 156, Part II, R. Coal Severance Tax Projects), that is not expressly reauthorized or reallotted in this Act is deemed to be reauthorized. Notwithstanding

the criteria set forth in this section, the disposition of 2002-2004 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d).

(3) **New Bond Projects:** Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included at the beginning of fiscal year 2005-2006. Except for specific projects itemized in this section, the sale of bonds to finance projects shall occur after January 1, 2006.

The sale of bonds for the Facilities Management Phase II Renovate KY State Office Building Project shall occur after July 1, 2005.

The sale of bonds for the following projects shall occur after January 1, 2005:

a. KIA Fund A - Federally Assisted Wastewater Program;

b. KIA Fund F - Drinking Water Revolving Program;

c. KIA - Water and Sewer Resources Development Fund;

d. KIA - Water and Sewer Resources Development Fund for Tobacco Counties;

e. Governor's Office of Agricultural Policy, Replace Tobacco Funds;

f. Military Affairs, Upgrade Statewide Radio System;

g. Military Affairs, Expand State Emergency Operations Center;

h. Parks, Renovation Pool;

i. State Fair and Exposition Board, East Wing/Hall Renovation Project Design;

j. Economic Development Airport Relocation Assistance;

k. Department of Education, Replace New Lee Hall HVAC and Renovate KSD;

l. Vocational Rehabilitation, Replace Roof - Perkins Rehabilitation Center;

m. Facilities Management, Statewide Repair, Maintenance, and Replacement Pool Fund;

n. Governor's Office for Technology UCJIT - Court Improvements (E-Warrants);

o. Governor's Office for Technology, UCJIS - Criminal History;

p. Health and Family Services Cabinet, General Administration and Support, Safe Guarding Children at Risk (TWIST Rewrite);

q. Health and Family Services Cabinet, General Administration Support, Upgrade KASPER System DPH;

r. Mental Health and Mental Retardation Services, Upgrade HVAC Pipes and Electric - Glasgow; and

s. Mental Health and Mental Retardation Services, Replace Roof - Oakwood.

(4) **Lapse of General Fund Debt Service Appropriations for Canceled Projects:** If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

(5) **Bond Proceeds Investment Income:** Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Statewide Deferred Maintenance Fund account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below $5,000,000 in fiscal year 2004-2005, any debt service lapse necessary to bring the fund balance to $5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, or the Statewide Deferred Maintenance Fund account, shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other Parts of this Act.

(6) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Purchase of Agricultural Conservation Easements; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; Employment Services facilities projects authorized in this Part of this Act; Asbestos Abatement projects; Technology Trust Fund projects, systems, and initiatives; the Parks Renovation Project Pool; the Council on Postsecondary Education Agency Bond Pool; the Capital Renewal and Maintenance Bond Pool; and University Major Items of Equipment Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred

to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

A. GENERAL GOVERNMENT

Budget Units	2004-05	2005-06
1. OFFICE OF THE GOVERNOR		
COMMISSION ON MILITARY AFFAIRS		
001. Base Realignment and Closure (BRAC)		
General Fund	800,000	100,000
2. DEPARTMENT OF VETERANS' AFFAIRS		
001. New State Veterans Cemetery - Central Kentucky		
Reauthorization		
002. New Veterans Cemetery - Northern Kentucky		
Reauthorization		
003. Maintenance Pool		
Investment Income	100,000	100,000
3. KENTUCKY INFRASTRUCTURE AUTHORITY		
001. KIA Fund A - Federally Assisted Wastewater Program		
Federal Funds	42,000,000	-0-
Bond Funds	8,400,000	-0-
TOTAL	50,400,000	-0-
002. KIA Fund F Drinking Water Revolving Loan Program		
Federal Funds	38,000,000	-0-
Bond Funds	7,600,000	-0-
TOTAL	45,600,000	-0-
003. KIA - Water and Sewer Resources Development Fund		
Bond Funds	50,000,000	-0-
004. KIA - Water and Sewer Resources Development Fund for Tobacco Counties		
Bond Funds	62,925,000	-0-
005. Carter County Fiscal Court - Olive Hill Sewer Project		
Reauthorization and Reallocation ($600,000 Bond Funds)		

The above project is authorized from a reallocation from the Carter County Fiscal Court - Olive Hill Water Improvements and Line Extension project (2003 Ky. Acts, ch. 156, page 1895).

006. Winchester Municipal Utilities - Skylark/Chickadee/Redwing Sanitary Sewer Improvements
Reauthorization and Reallocation ($500,000 Bond Funds)

The above project is authorized from a reallocation from the Winchester Municipal Utilities - KY 15 Elevated Press project (2003 Ky. Acts, Ch. 156, page 1903).

(1) **Funds Appropriations:** The Bond Funds appropriated in items 001. and 002. above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the Operating Budget to comply with the Federal Cash Management Act.

(2) **Allocation Policy:** The Bond Funds appropriated in item 003. above are intended to be allocated according to need as determined by the Kentucky Infrastructure Authority (KIA) and in support of local economic development consistent with KIA's approved water and sewer plans.

(3) **Expenditure of Loan Repayments Cash Balances:** The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

Budget Units	2004-05	2005-06
4. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY		
001. Replace Tobacco Funds		
Bond Funds	17,000,000	-0-

5.	**TREASURY**		
001.	Checksealer Equipment - Lease - Additional		
	Capital Construction Surplus	63,000	63,000
6.	**AGRICULTURE**		
001.	Franklin County - Lease		
7.	**KENTUCKY RETIREMENT SYSTEMS**		
001.	Franklin County - Lease		
8.	**ATTORNEY GENERAL**		
001.	Franklin County - Lease		
9.	**UNIFIED PROSECUTORIAL SYSTEM - COMMONWEALTH'S ATTORNEYS**		
001.	Jefferson County - Lease		
10.	**DEPARTMENT OF PERSONNEL**		
001.	Replace Commonwealth's Personnel Payroll System		
	Bond Funds	25,000,000	-0-
002.	On-line Health Insurance Application		
	Restricted Funds	500,000	750,000
003.	Franklin County - Lease		
11.	**MILITARY AFFAIRS**		
001.	Upgrade Statewide Radio System		
	Bond Funds	1,400,000	-0-
002.	Expand State Emergency Operations Center		
	Federal Funds	6,825,000	-0-
	Bond Funds	2,275,000	-0-
	TOTAL	9,100,000	-0-
003.	Extend Runway and Taxiway Capital City Airport		
	Federal Funds	1,901,000	-0-
	Capital Construction Surplus	192,000	-0-
	TOTAL	2,093,000	-0-
004.	Construct CCA Perimeter Security Fencing		
	Federal Funds	402,000	-0-
	Capital Construction Surplus	45,000	-0-
	TOTAL	447,000	-0-
005.	Construct Aircraft Modification Building at Bluegrass Station		
	Restricted Funds	500,000	-0-
	Federal Funds	1,500,000	-0-
	TOTAL	2,000,000	-0-
006.	Runway Parallel Taxiway Pavement Overlay		
	Federal Funds	1,780,000	-0-
007.	Maintenance Pool -Bluegrass Station		
	Restricted Funds	2,500,000	2,500,000
008.	Maintenance Pool - Air Transportation		
	Investment Income	450,000	450,000
009.	Hangar/Warehouse/Office Buildings - Bluegrass Station		
	Agency Bonds	10,000,000	-0-
12.	**KENTUCKY RIVER AUTHORITY**		
001.	KY River Dam Maintenance Pool		
	Restricted Funds	500,000	500,000
002.	KRWSE - Dam 10 Real Estate, Dam 9 Final Design		

Restricted Funds	727,000	-0-
Agency Bonds	1,773,000	-0-
TOTAL	2,500,000	-0-
13. LOCAL GOVERNMENT		
001. Flood Control Matching Fund - Additional		
Restricted Funds	1,500,000	1,500,000
14. BOARD OF NURSING		
001. Jefferson County – Lease		

B. COMMERCE CABINET

Budget Units	**2004-05**	**2005-06**
1. PARKS		
002. Parks Renovation Pool		
Bond Funds	35,000,000	-0-

(1) **Kincaid Lake State Park:** In the event Kincaid Lake State Park receives funds from the Parks Renovation Pool, then the Park is authorized to expend any savings or remaining balance for the purpose of acquiring land to complete the golf course at Kincaid Lake State Park.

2. KENTUCKY HORSE PARK COMMISSION		
001. Construct Permanent Seating Stadium Jumping Area		
Other Funds	-0-	1,000,000
002. Maintenance Pool		
Investment Income	575,000	575,000
3. STATE FAIR BOARD		
001. Repave Parking Lots E, J and Ashton/Adair		
Restricted Funds	1,281,000	49,000
002. Replace Paving from Gate 1 to Gate 2		
Restricted Funds	900,000	-0-
003. Renovate Existing Restrooms		
Restricted Funds	44,000	788,000
004. Renovate KICC Pedway System		
Restricted Funds	50,000	950,000
005. Maintenance Pool		
Restricted Funds	1,000,000	1,000,000
006. Design East Wing/Hall Renovation Project 2,500,000	-0-	
Bond Funds		
4. FISH AND WILDLIFE RESOURCES		
001. Automated License Sales System Upgrade		
Restricted Funds	650,000	-0-
002. Fees-in-Lieu-of Stream Mitigation Projects Pool		
Restricted Funds	5,000,000	5,000,000
003. Maintenance Pool		
Restricted Funds	400,000	400,000
004. Land Acquisition Pool		
Restricted Funds	700,000	700,000
005. Edmonson County Environmental Study		
Reauthorization and Reallocation		
5. KENTUCKY HISTORICAL SOCIETY		
001. KY History Center - Purchase Casework		
Capital Construction Surplus	250,000	-0-
6. KENTUCKY CENTER FOR THE ARTS		

001. Maintenance Pool		
Investment Income	252,000	160,000

C. ECONOMIC DEVELOPMENT CABINET

(1) Economic Development Bond Issues: Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

(2) Permissible Use of Available KEDFA Funds: Moneys available to the Kentucky Economic Development Finance Authority (KEDFA) under KRS 154.20-010 to 154.20-180 shall be used exclusively for the purposes of those statutes or as expressly provided for in this Act. Nothing in this Act shall prohibit the transfer of funds from KEDFA to the New Economy Program as set out in this Act.

(3) Seeding Innovation Project: The Kentucky Economic Development Finance Authority Board is encouraged to work with the Office for the New Economy to provide up to $500,000 each year of the 2004-2006 fiscal biennium to fund the Seeding Innovation Project for Kentucky's elementary and secondary schools.

Budget Units	**2004-05**	**2005-06**
1. OFFICE OF THE SECRETARY		
001. New Economy High-Tech Investment/Construction Pool		
Restricted Funds	11,575,000	10,985,000

(1) Apportionment of Funds: The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

2. FINANCIAL INCENTIVES		
001. Economic Development Bond Pool		
Reauthorization ($5,000,000 Bond Funds)		
Bond Funds - Additional	10,000,000	-0-
002. Purchase Regional Industrial Park		
Restricted Funds	2,250,000	-0-
003. Airport Relocation Assistance		
Bond Funds	5,000,000	-0-

D. DEPARTMENT OF EDUCATION

Budget Unit	**2004-05**	**2005-06**
1. EDUCATION		
001. Save Energy Performance Contract Project		
002. Replace New Lee Hall HVAC and Renovate KSD		
Bond Funds	3,490,000	-0-
003. Maintenance Pool		
Investment Income	675,000	675,000

E. EDUCATION CABINET

Budget Units	**2003-04**	**2004-05**	**2005-06**
1. KENTUCKY EDUCATIONAL TELEVISION			
001. Replace Roof at Network Center			
Investment Income	-0-	1,000,000	-0-
002. Maintenance Pool			
Investment Income	-0-	100,000	100,000
2. SCHOOL FACILITIES CONSTRUCTION COMMISSION			
001. School Facilities Construction Commission			
Reauthorization ($121,724,700 Bond Funds)			
002. Urgent Need School Trust Fund			
Reauthorization ($55,284,000 Bond Funds)			
003. Category 5 School Buildings			

Reauthorization ($54,730,900Bond Funds)			
004. Offers of Assistance			
Bond Funds		67,735,000	-0-
3. GENERAL ADMINISTRATION AND PROGRAM SUPPORT			
001. Guaranteed Energy Savings Project			
002. Maintenance Pool			
Investment Income	-0-	395,000	460,000
4. EMPLOYMENT SERVICES			
001. BARTS II			
Federal Funds	563,000	-0-	-0-

(1) Current Year Appropriation: Included in the above Federal Funds appropriation is $563,000 in fiscal year 2003-2004 to continue the Benefit Audit Reporting and Tracking System (BARTS) II project.

(2) Facility Replacement and Renovation Program: The General Assembly authorizes the Department for Employment Services to develop and implement a facility replacement and renovation program to improve the quality of Cabinet for Workforce Development facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government.

5. VOCATIONAL REHABILITATION			
001. Replace Roof Perkins Rehabilitation Center			
Bond Funds	-0-	1,200,000	-0-
002. Franklin County - Lease			
003. Fayette County - Lease			
6. TEACHERS' RETIREMENT SYSTEM			
001. KTRS Pension Management System			
Restricted Funds	-0-	-0-	2,000,000

F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units	**2004-05**	**2005-06**
1. GENERAL ADMINISTRATION AND SUPPORT		
002. Network Upgrade		
Investment Income	500,000	-0-
2. ENVIRONMENTAL PROTECTION		
001. State-Funded Leaking Underground Storage Tanks		
Restricted Funds	500,000	500,000
002. Hazardous Waste Management Fund		
Restricted Funds	2,100,000	2,100,000
003. National Environmental Exchange Network Grant		
Federal Funds	150,000	350,000
004. Franklin County - Lease (DoW Comm., Ash Bldg.)		
005. Franklin County - Lease (Air Qual., Schenkel Ln.)		
006. Kentucky Heritage Land Conservation Fund Additional		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
TOTAL	4,000,000	4,000,000
3. SURFACE MINING RECLAMATION AND ENFORCEMENT		
001. Franklin County - Lease		
4. KENTUCKY NATURE PRESERVES COMMISSION		

001. Kentucky Nature Preserves Acquisition Fund		
Other Funds	300,000	300,000
5.. **HOUSING, BUILDINGS AND CONSTRUCTION**		
001. Franklin County - Lease		
6. **DEPARTMENT OF INSURANCE**		
001. Franklin County - Lease		
7. **PUBLIC ADVOCACY**		
001. Franklin County - Lease		
8. **WORKPLACE STANDARDS**		
001. Franklin County - Lease		
9. **WORKERS' CLAIMS**		
001. Franklin County - Lease		

G. FINANCE AND ADMINISTRATION CABINET

Budget Units	**2003-04**	**2004-05**	**2005-06**
1. **ADMINISTRATION**			
001. Two Inserting Machines - Postal Services			
Restricted Funds	-0-	300,000	-0-
002. Finance Genesco Building - Lease			
2. **FACILITIES MANAGEMENT**			
001. Design Renovation Capital Plaza, Tower & Site			
Bond Funds	-0-	5,573,000	-0-
002. Improve Site Infrastructure - KY Capitol Complex II			
Bond Funds	-0-	18,500,000	-0-
003. Capital Construction and Equipment Purchase Contingency Fund			
Investment Income	-0-	200,000	-0-
004. Renovate KY State Office Building - Phase II			
Bond Funds	-0-	41,300,000	-0-
005. Guaranteed Energy Performance Projects Pool			

(1) **Authorization and Purpose of Pool:** The Guaranteed Energy Performance Projects Pool shall serve as a central project pool for Guaranteed Energy Savings Performance Contracts in any state-owned building. These contracts will function as lease-purchase procurements, using energy savings as payment for improvements, as provided by KRS 56.770 to 56.784. The Finance and Administration Cabinet is authorized to enter into various guaranteed energy performance contracts for facilities in any state agency.

006. Statewide Repair, Maintenance, and Replacement Pool Fund			
Bond Funds	-0-	31,550,000	-0-

(1) **Statewide Repair, Maintenance, and Replacement Pool Fund:** Included in the above Statewide Repair, Maintenance, and Replacement Pool Fund are the following Bond Funds supported projects and related appropriations in fiscal year 2004-2005:

(a) Military Affairs, Construct 30 New T-Hangars, Capital City Airport, $1,350,000;

(b) Military Affairs, Maintenance Pool, $1,720,000;

(c) Parks, Maintenance Pool, $7,980,000;

(d) Kentucky Educational Television, Replace Roof at Network Center, $1,000,000;

(e) Environmental and Public Protection Cabinet, General Administration and Support, Maintenance Pool, $700,000;

(f) Environmental and Public Protection Cabinet, Department for Environmental Protection, State-Owned Dam Repair, $2,000,000;

(g) Facilities Management, Acquire Land/Demolish Buildings Statewide, $1,950,000;

(h) Facilities Management, Statewide Deferred Maintenance Fund, $1,000,000;

(i) Facilities Management, Emergency Repair, Maintenance, and Replacement Fund, $5,000,000;

(j) Facilities Management, Maintenance Pool, $7,500,000;

(k) Health and Family Services Cabinet, Department for Mental Health and Mental Retardation Services, Chiller Pool,

$450,000; and

(l) Justice and Public Safety Cabinet, Department for Juvenile Justice, Maintenance Pool, $900,000.

007.	Maintenance Pool			
	Restricted Funds	-0-	124,000	124,000

3. KENTUCKY LOTTERY CORPORATION

001.	Sales and Quota System			
	Other Funds	-0-	500,000	-0-
002.	Potential Buyout of On-line Gaming System			
	Other Funds	-0-	12,250,000	-0-
003.	Contingency on Property Adjacent to New Headquarters			
	Other Funds	-0-	3,750,000	-0-
004.	Network Storage and Associated Infrastructure			
	Other Funds	-0-	500,000	-0-
005.	iSeries System Upgrades			
	Other Funds	-0-	1,500,000	-0-
006.	Data Processing, Telecomm., and Related Equipment			
	Other Funds	-0-	3,000,000	3,000,000

(1) **Property Acquisition:** The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery Corporation's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $3,750,000 in the aggregate.

4. GOVERNOR'S OFFICE FOR TECHNOLOGY

(1) **Transfer of Restricted Funds from Operating Budget:** For the major equipment purchases displayed in this section funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

001.	UCJIS -Court Improvements (E-Warrants)			
	Federal Funds	-0-	2,000,000	-0-
	Bond Funds	-0-	4,500,000	-0-
	TOTAL	-0-	6,500,000	-0-
002.	Enterprise Infrastructure Security			
	Restricted Funds	-0-	1,000,000	-0-
003.	Enterprise Storage Solution			
	Restricted Funds	-0-	1,000,000	1,000,000
004.	Enterprise Tape Equipment/Media Solution			
	Restricted Funds	-0-	1,200,000	-0-
005.	Enterprise Messaging			
	Restricted Funds	-0-	660,000	-0-
006.	Disaster Recovery Project			
	Federal Funds	-0-	5,146,000	-0-
007.	KY Information Highway Upgrade Expansion			
	Restricted Funds	-0-	3,500,000	-0-
008.	Enterprise UNIX Server(s) Consolidation			
	Restricted Funds	-0-	2,000,000	1,300,000
009.	UCJIS - Criminal History			
	Bond Funds	-0-	2,000,000	-0-
010.	Enterprise Server Complex Upgrade			
	Restricted Funds	-0-	1,250,000	1,250,000
011.	Statewide Digital Orthoimagery Basemap Updating			
	Restricted Funds	-0-	200,000	-0-
	Federal Funds	-0-	300,000	-0-

	TOTAL	-0-	500,000	-0-
012.	Disk Storage Upgrade			
	Restricted Funds	-0-	800,000	-0-
013.	Public Safety Communications Infrastructure - KEWS			
	Bond Funds	-0-	-0-	26,768,000
014.	Enterprise Server (z/OS) Upgrade/Replacement			
	Restricted Funds	-0-	800,000	400,000
015.	Franklin County - Lease			
6.	**OFFICE OF THE CONTROLLER**			
001.	Management Administrative Reporting System Upgrade			
	Restricted Funds	-0-	3,500,000	-0-
	Investment Income	-0-	3,500,000	-0-
	TOTAL	-0-	7,000,000	-0-
7.	**REVENUE**			
001.	Develop Streamlined Sales Tax Simplification System			
	Bond Funds	-0-	14,062,000	-0-
002.	Franklin County - Lease - Perimeter Park			
003.	Franklin County - Lease - 200 Fair Oaks			
004.	Franklin County - Lease - 100 Fair Oaks			
005.	Business Refund Off-Set System			
	Bond Funds	-0-	1,750,000	-0-
006.	Collection System Interface Phase I			
	Investment Income	-0-	1,500,000	-0-

H. HEALTH AND FAMILY SERVICES CABINET

Budget Units		**2004-05**	**2005-06**
1.	**GENERAL ADMINISTRATION AND PROGRAM SUPPORT**		
001.	Safeguarding Children at Risk (TWIST Re-Write)		
	Federal Funds	264,000	261,000
	Bond Funds	1,227,000	-0-
	TOTAL	1,491,000	261,000
002.	Server Refresh Phase I		
	Federal Funds	249,200	-0-
	Investment Income	249,200	-0-
	TOTAL	498,400	-0-
003.	Network Infrastructure Upgrade FY 05-06		
	Federal Funds	781,500	-0-
	Investment Income	781,500	-0-
	TOTAL	1,563,000	-0-
004.	Child Support Enforcement (KASES II)		
	Federal Funds	3,960,000	-0-
	Bond Funds	2,040,000	-0-
	TOTAL	6,000,000	-0-
005.	Support for Health and Welfare Services (KAMES)		
	General Fund	-0-	6,000,000
	Federal Funds	-0-	54,000,000
	TOTAL	-0-	60,000,000
006.	Boone County - Lease		
007.	Boyd County - Lease		

	008.	Campbell County - Lease		
	009.	Fayette County - Lease		
	010.	Fayette County - Lease		
	011.	Franklin County - Lease		
	012.	Franklin County - Lease		
	013.	Hardin County - Lease		
	014.	Harlan County - Lease		
	015.	Henderson County - Lease		
	016.	Jefferson County - Lease		
	017.	Johnson County - Lease		
	018.	Kenton County - Lease		
	019.	Kenton County - Lease		
	020.	OTS Franklin - Lease		
	021.	Perry County - Lease		
	022.	Shelby County - Lease		
	023.	Warren County - Lease		
	024.	Upgrade KASPER System DPH		
		Bond Funds	5,000,000	-0-
2.	**MENTAL HEALTH AND MENTAL RETARDATION SERVICES**			
	025.	Upgrade HVAC Pipes & Electric - Glasgow		
		Bond Funds	2,000,000	-0-
	026.	Replace Roof Oakwood		
		Bond Funds	2,000,000	-0-
	027.	MH/MR Fair Oaks Franklin County - Lease		
	028.	MH/MR VA Hospital - Lease		
	029.	Maintenance Pool		
		Investment Income	1,300,000	1,500,000
	030.	MH/MR Misc. Roof Pool - Statewide		
		Investment Income	700,000	-0-
3.	**PUBLIC HEALTH**			
	001.	Purchase Laboratory Equipment - Tandem Mass Sp.-DPH		
		Capital Construction Surplus	330,000	-0-
	002.	Replace Laboratory Equipment - DPH		
		Investment Income	350,000	-0-

I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units			**2004-05**	**2005-06**
1.	**STATE POLICE**			
	001.	Replacement of Records & Secure Evidence Facility		
		Bond Funds	5,522,000	-0-
	002.	Maintenance Pool		
		Investment Income	300,000	300,000
2.	**CORRECTIONS MANAGEMENT**			
	001.	Perform Energy Perf. Contracting - Various II		
	002.	Replace Electronic Offender Mgt. Systems Ph I		
		Bond Funds	3,000,000	-0-
	003.	Maintenance Pool		
		Investment Income	2,672,000	1,850,000

J. POSTSECONDARY EDUCATION

(1) Major Item of Equipment Pools: Acquisitions made by any postsecondary institution as part of an authorized Restricted Funds Major Item of Equipment Pool shall be limited to equipment items identified and prioritized by the institution in its capital budget request. The institution shall report to the Finance and Administration Cabinet and to the Capital Projects and Bond Oversight Committee monthly on the purchase of each major item of equipment.

Budget Units		**2004-05**	**2005-06**
1.	**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**		
001.	Purchase Inserter		
	Restricted Funds	140,000	-0-
002.	Franklin County - Lease		
003.	Upgrade IBM iseries-Based Department and Peripheral Equipment		
	Restricted Funds	700,000	-0-
004.	Jefferson County - Lease		

2. **COUNCIL ON POSTSECONDARY EDUCATION**

(1) Postsecondary Projects Authorization: The authorization to finance specified postsecondary projects itemized below by auxiliary enterprises agency revenue bonds or hospital agency revenue bonds issued by the respective postsecondary institution is contingent upon passage of 2004 House Bill 489. The amount of debt service on these bonds and all revenues generated by such projects shall not be included in any determination of the Commonwealth's debt capacity.

If 2004 House Bill 489 does not become law, the projects specified below shall be authorized to be financed by the respective institution's Restricted Funds budget, and shall be considered eligible for bond authority under the Council on Postsecondary Education Agency Bond Pool with one exception.

If 2004 House Bill 489 does not become law, the Murray State University project, Construct New Residential College Facility to replace Richmond and Clark Halls, shall be authorized to be financed from bonds to be issued through the City of Murray (City) and under a management agreement between the University and the Murray State Campus Improvement Corporation (Corporation). The University shall submit any proposed memorandum of agreement with the City and any proposed memorandum of agreement with the Corporation to the Council on Postsecondary Education, the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee for their respective review and approval to ensure consistency with appropriate state fiscal and legal interests and procedures prior to the execution of any memorandum of agreement.

Budget Units		**2004-05**	**2005-06**
1.	**EASTERN KENTUCKY UNIVERSITY**		
001.	Renovate Residence Hall	7,500,000	-0-
002.	Renovate Student Health Center	2,072,000	-0-
003.	Construct New Intramural Fields	2,300,000	-0-
2.	**KENTUCKY STATE UNIVERSITY**		
001.	Construct New Residence Hall	20,000,000	-0-
002.	Build-out Hill Student Center Third Floor	600,000	-0-
003.	Repair Alumni Stadium Structure	400,000	-0-
004.	Construct Softball Field	500,000	-0-
3.	**MOREHEAD STATE UNIVERSITY**		
001.	Expand Student Wellness Center	1,000,000	-0-
002.	Comply with ADA – Auxiliary	1,200,000	-0-
003.	Construct Family Housing Complexes Phase II	4,700,000	-0-
004.	HVAC/Fan Coil Project Pool – Auxiliary	1,216,000	-0-
005.	Exterior/Roof & Window Replacement Project Pool – Auxiliary	1,445,000	-0-
006.	Interior/Plumbing/Elevator Project Pool – Auxiliary	1,420,000	-0-
3.	**MURRAY STATE UNIVERSITY**		
001.	Construct New Residential College Facility to Replace Richmond and Clark Halls	26,154,000	-0-
4.	**NORTHERN KENTUCKY UNIVERSITY**		

001.	Construct New Student Union	28,000,000	-0-
	In addition to the above bond authorization, $4,800,000 in Restricted Funds is authorized for the project.		
002.	Construct New Parking Deck Phase II	9,700,000	-0-
5.	**UNIVERSITY OF KENTUCKY**		
001.	Renovate Outpatient Clinic at Kentucky Clinic	2,237,000	-0-
002.	Construct New Housing	49,991,000	-0-
003.	Construct Parking Structure – North Campus	25,248,000	-0-
004.	Expand Memorial Coliseum	25,500,000	-0-
005.	Construct Patient Bed Tower – Hospital	50,000,000	-0-
006.	Construct Outpatient Diagnostics/Treatment Facility II – Hospital	17,545,000	-0-
007.	Renovate Dietetics – Hospital	6,000,000	-0-
008.	Renovate Commonwealth Stadium Concrete	2,500,000	-0-
009.	Renovate Football Practice Field	2,250,000	-0-
010.	Construct Baseball Clubhouse	2,000,000	-0-
011.	Renovate Blazer Hall Cafeteria	1,170,000	-0-
012.	Renovate Student Center Food Court	1,643,000	-0-
013.	Renovate Central Facility Cafeteria	1,585,000	-0-
014.	Renovate First Floor Phase I – Hospital	8,000,000	-0-
6.	**UNIVERSITY OF LOUISVILLE**		
001.	Purchase Third Street & Central Avenue Property	3,100,000	-0-
002.	Construct Baseball Stadium	5,003,000	-0-
003.	Construct Basketball Facility & Office	8,500,000	-0-
004.	Construct Boathouse for Women's Rowing Program	2,676,000	-0-
005.	Renovate University Housing Capital Renewal Phase I	3,210,000	-0-
006.	Construct Health Sciences Center Parking Structure II	14,440,000	-0-
007.	Construct Multipurpose Field House & Practice Facility	12,404,000	-0-
7.	**WESTERN KENTUCKY UNIVERSITY**		
001.	Renovate Downing University Center Phase III	11,000,000	-0-
002.	Construct Student Health Services Clinic	4,000,000	-0-
003.	Improve South Campus Parking and Dining	4,200,000	-0-
	In addition to the above bond authorization, $7,300,000 in Restricted Funds is authorized for the project.		
AGENCY			
001.	Capital Renewal & Maintenance Pool Bond Funds	15,000,000	-0-
002.	Franklin County - Lease		
003.	KYVU/KYVL Website ADA Compliance Redesign Restricted Funds	750,000	-0-
004.	KYVL Portal - Statewide License Replacement Restricted Funds	1,000,000	-0-

(1) **Postsecondary Education Capital Renewal and Maintenance Pool Match:** The Capital Renewal and Maintenance Pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace

building systems and infrastructure in Education and General facilities. The individual projects funded from this pool shall be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified by the Council. The Council shall determine the allocation of the Capital Renewal and Maintenance pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Capital Projects and Bond Oversight Committee. The Bond Funds in this pool shall be matched with the institutions' Restricted Funds at varying levels as determined by the Council on Postsecondary Education.

005.	Agency Bonds Pool		
	Agency Bonds	42,902,000	-0-

(1) Council on Postsecondary Education's Agency Bonds Pool Projects: The Council on Postsecondary Education shall identify projects for funding from the Council's Agency Bonds Pool. The Council on Postsecondary Education shall report allocations from the Agency Bonds Pool to the Secretary of the Finance and Administration Cabinet, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, and the Capital Projects and Bond Oversight Committee.

(2) Disease Diagnostic Center: Included in the above Agency Bonds Pool is authorization to issue $4,500,000 in Agency Bonds for the project to Expand and Upgrade the University of Kentucky Livestock Disease Diagnostic Center.

3. EASTERN KENTUCKY UNIVERSITY

001.	Construct Business/Technology Center, Phase II		
	Bond Funds	27,000,000	-0-
002.	Upgrade Academic Computing		
	Restricted Funds	2,300,000	2,600,000
003.	Purchase Networked Education System Component		
	Restricted Funds	3,450,000	3,500,000
004.	Expand, Upgrade Campus Data Network		
	Restricted Funds	7,212,000	6,000,000
005.	Upgrade Administrative Computing System		
	Restricted Funds	1,650,000	1,500,000
006.	Purchase Fourier Trans. Nuc. Mag. Res. Spect.		
	Restricted Funds	135,000	-0-
007.	Construct E & G Life Safety Begley Elevator		
	Reauthorization ($750,000 Restricted Funds)		
008.	Purchase of Property		
	Restricted Funds	3,000,000	-0-
009.	Guaranteed Energy Savings Project		
010.	Renovate Watts Property (Elmwood)		
	Reauthorization ($2,000,000 Restricted Funds)		
011.	Expand and Renovate Presnell Building		
	Reauthorization ($1,000,000 Restricted Funds)		
012.	Expand Indoor Tennis Facility		
	Restricted Funds	1,000,000	-0-

4. KENTUCKY STATE UNIVERSITY

001.	Hathaway Hall Renovation Phase II		
	Bond Funds	7,400,000	-0-
002.	Renovate Young Hall - Additional		
	Reauthorization ($4,547,000 Agency Bonds)		
	Restricted Funds	396,000	-0-
	Bond Funds	5,339,000	-0-
	TOTAL	5,735,000	-0-
003.	Bradford Hall Structural Repair		
	Restricted Funds	900,000	-0-
004.	Expand Business Wing & Renovate Bradford Hall		

	Restricted Funds	8,400,000	16,600,000
005.	Roof Repairs & Replacement Exum/Combs/Bell Gym		
	Restricted Funds	450,000	450,000
006.	Extend Fiber Network to South Campus		
	Restricted Funds	839,000	-0-
007.	Implement Smart Card Technology		
	Restricted Funds	1,165,000	-0-
008.	Add New Chiller		
	Restricted Funds	2,392,000	-0-
009.	Telecommunication Equipment (PBX)		
	Restricted Funds	1,352,000	-0-
010.	Expand Cooperative Extension Bldg.		
	Federal Funds	-0-	3,353,000
011.	Guaranteed Energy Savings Project		

5. MOREHEAD STATE UNIVERSITY

001.	Major Item of Equipment Pool		
	Restricted Funds	4,023,000	-0-
002.	Construct MSU-NASA Space Science Center		
	Federal Funds	5,000,000	-0-
	Bond Funds	7,200,000	-0-
	TOTAL	12,200,000	-0-

(1) NASA-Goddard Satellite Tracking Station: The NASA-Goddard Satellite Tracking Station new space science facility is to support the 18-meter NASA-Goddard satellite tracking station to be located on the campus of Morehead State University. With the new facility, academic programs in physics, pre-engineering, space technology, and other space-related fields will be developed or expanded. The new facility will also provide new economic development and outreach opportunities solely resulting from the NASA-Goddard Satellite Tracking Station.

003.	KY Geodetic Infrastructure Phase I		
	Federal Funds	5,000,000	-0-
004.	Comply with ADA- E & G - Additional		
	Restricted Funds	500,000	-0-
005.	Enhance Network/Infrastructure Resources		
	Reauthorization ($2,250,000 Restricted Funds)		
006.	Enhance Library Automation Resources		
	Reauthorization ($750,000 Restricted Funds)		
007.	Enhance Distance Learning Systems		
	Reauthorization ($2,500,000 Restricted Funds)		
008.	Expand Compressed Video Resources - Additional		
	Restricted Funds	309,000	-0-
009.	Upgrade Instruct. PCs/LANS/Peripherals		
	Reauthorization ($2,500,000 Restricted Funds)		
010.	Upgrade Administrative Office Systems		
	Reauthorization ($2,000,000 Restricted Funds)		
011.	Reconstruct Central Campus		
	Reauthorization ($780,000 Restricted Funds)		
012.	Acquire Land Related to Master Plan		
	Restricted Funds	2,000,000	-0-
013.	Replace Steam Line		
	Restricted Funds	500,000	-0-
014.	Replace Boiler Tubes		

	Restricted Funds	800,000	-0-
015.	Replace Bag House		
	Restricted Funds	2,000,000	-0-
016.	Construct Parking Structure - Additional		
	Restricted Funds	500,000	-0-
6.	**MURRAY STATE UNIVERSITY**		
001.	Construct New Science Complex - Phase II		
	Bond Funds	15,000,000	-0-
002.	Replace Richmond Hall		
	Reauthorization ($8,000,000 Restricted Funds)		
003.	Replace Clark Hall		
	Reauthorization ($8,000,000 Restricted Funds)		
004.	Guaranteed Energy Savings Project		
005.	Acquire Land		
	Restricted Funds	499,800	-0-
006.	Install 350 Ton Chiller - Reg. Special Events Center		
	Reauthorization ($400,000 Restricted Funds)		
007.	Construct Public Safety Building		
	Restricted Funds	1,500,000	-0-
008.	Repair Stewart Stadium - Structural		
	Restricted Funds	2,000,000	-0-
009.	Install Baseball Field and Stadium Sidewalk Lights		
	Reauthorization ($600,000 Restricted Funds)		
010.	Replace Breathitt Veterinary Center Incinerator		
	Restricted Funds	1,500,00	-0-
011.	Upgrade Campus Electrical Distribution System		
	Reauthorization ($10,765,000 Restricted Funds)		
012.	Capital Renewal & Deferred Maintenance Pool		
	Restricted Funds	19,084,000	-0-
013.	Replace Campus Communications Infrastructure		
	Restricted Funds	2,500,000	-0-
014.	Replace Telephone Switching System		
	Reauthorization ($1,000,000 Restricted Funds)		
015.	Replace Clark Hall Water Piping, Fixtures, Etc.		
	Reauthorization ($600,000 Restricted Funds)		
016.	Replace Springer Hall Water Piping, Fixtures, Etc.		
	Reauthorization ($800,000 Restricted Funds)		
017.	Replace Franklin Hall Water Piping, Fixtures, Etc.		
	Reauthorization ($600,000 Restricted Funds)		
018.	Replace Richmond Hall Water Piping Fixtures, Etc.		
	Reauthorization ($600,000 Restricted Funds)		
019.	Replace Regents Hall Domestic Water Piping		
	Reauthorization ($500,000 Restricted Funds)		
020.	Upgrade College Courts Electrical System		
	Reauthorization ($1,200,000 Restricted Funds)		
021.	Renovate College Courts		
	Reauthorization ($3,636,000 Restricted Funds)		
022.	Renovate College Courts Interiors (12 Buildings)		

	Reauthorization ($2,000,000 Restricted Funds)		
023.	Replace Student Writing and Design Lab Computers		
	Restricted Funds	414,000	-0-
024.	Upgrade Campus Network to Gigabit Ethernet System		
	Reauthorization ($1,000,000 Restricted Funds)		
025.	Install Online Centralized Data Access/Warehouse		
	Restricted Funds	520,000	-0-
026.	Establish Centralized Technology Refresh Program		
	Restricted Funds	2,600,000	-0-
027.	Purchase BVC Electron Microscope-Scanning Type		
	Restricted Funds	300,000	-0-
028.	Replace Franklin Hall		
	Reauthorization ($8,000,000 Restricted Funds)		
029.	Remove Elizabeth Hall Asbestos Ceiling		
	Reauthorization ($450,000 Restricted Funds)		
030.	Remove Hester Hall Asbestos Ceilings		
	Reauthorization ($450,000 Restricted Funds)		
031.	Repair Winslow Cafeteria Exterior		
	Reauthorization ($500,000 Restricted Funds)		
7.	**NORTHERN KENTUCKY UNIVERSITY**		
001.	Regional Special Events Center		
	Bond Funds	42,000,000	-0-
002.	Repair Structure of Landrum Hall/Phase II		
	Restricted Funds	900,000	-0-
003.	Renovate/Expand Landrum Hall -Design		
	Restricted Funds	700,000	-0-
004.	Replace Power Distribution Infrastructure		
	Restricted Funds	3,000,000	-0-
005.	Upgrade AS &T Instructional Space		
	Restricted Funds	3,100,000	-0-
006.	Land Acquisition Pool - 2004-2006		
	Restricted Funds	3,000,000	-0-
007.	Replace Air Handlers		
	Restricted Funds	875,000	-0-
008.	Replace Elevators Landrum Hall/Lucas Admin Center		
	Restricted Funds	900,000	-0-
009.	Construct Sports Complex		
	Restricted Funds	12,000,000	-0-
010.	Initiate Phase II Master Plan		
	Restricted Funds	2,200,000	-0-
011.	Expand Regents Hall		
	Restricted Funds	1,300,000	-0-
012.	Reconstruct Central Plaza		
	Restricted Funds	3,500,000	-0-
013.	Enhance Info Technology Infrastructure		
	Reauthorization ($2,700,000 Restricted Funds)		
014.	Enhance Instructional Info Technology		
	Restricted Funds	3,600,000	-0-

015.	Construct Alumni Center		
	Restricted Funds	5,100,000	-0-
016.	Purchase Coach Bus		
	Restricted Funds	400,000	-0-
017.	Purchase Direct Image Platesetter		
	Restricted Funds	150,000	-0-
018.	Replace Admin Application System		
	Restricted Funds	6,160,000	-0-
019.	Office Space - Lease		
020.	Metropolitan and Education Service Center- Lease		

8. UNIVERSITY OF KENTUCKY

001.	Major Item of Equipment Pool		
	Restricted Funds	75,000,000	-0-
002.	Construct Biological/Pharmaceutical Complex		
	Bond Funds	21,000,000	-0-
	Agency Bonds	21,000,000	-0-
	TOTAL	42,000,000	-0-

(1) Construct Biological/Pharmaceutical Complex: A portion of the General Fund supported bonds may be made available to the University for the above project prior to the issuance of the Agency Bonds and after the submission of a letter of request by the University President to, and acceptance by, the Secretary of the Finance and Administration Cabinet. The letter shall include an affirmation of the University's intent to proceed with the issuance of Agency Bonds prior to submitting its budget request for the 2006-2008 biennium. Full access to the state bond funds may be made available to the project upon the approval by the Secretary of the Finance and Administration Cabinet of a plan of action submitted by the University, including a financial plan and timeline for the issuance of the Agency Bonds, at any time prior to November 15, 2005.

003.	Construct Gatton Building Complex - Design		
	Restricted Funds	4,500,000	-0-
004.	Construct Law School Building - Design		
	Restricted Funds	4,000,000	-0-
005.	Purchase/Renovate Facility for College of Design		
	Restricted Funds	16,528,000	-0-
006.	Construct LCC Classroom/Class Lab Building		
	Bond Funds	28,855,000	-0-
007.	Construct Digital Technologies Building - Design		
	Restricted Funds	3,000,000	-0-
008.	Expand Plant, Soil & Envir. Sci. Facil. - Design		
	Restricted Funds	1,500,000	-0-
009.	Expand Chemistry-Physics Building Design		
	Restricted Funds	5,500,000	-0-
010.	Expand & Upgrade Livestock Disease Diag. Center		
	Restricted Funds	4,000,000	-0-
011.	Construct Bio-Medical Research Building Design		
	Restricted Funds	6,000,000	-0-
012.	Construct Early Childhood Development/Family Center		
	Restricted Funds	9,956,000	-0-
013.	Expand KGS Well Sample & Core Repository		
	Restricted Funds	3,759,000	-0-
014.	Renovate Sections of Funkhouser		
	Restricted Funds	4,923,000	-0-
015.	Construct Student Health Facility		

	Restricted Funds	21,801,000	-0-
016.	Improve Life Safety, Project Pool		
	Restricted Funds	5,290,000	-0-
017.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	15,000,000	-0-
018.	Upgrade Fume Hoods TH Morgan - Life Safety		
	Restricted Funds	2,738,000	-0-
019.	Upgrade Fume Hoods Research #3 - Life Safety		
	Restricted Funds	4,825,000	-0-
020.	Upgrade HVAC - CAER Ph. III Life Safety		
	Restricted Funds	475,000	-0-
021.	Upgrade Pharm. Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	-0-
022.	Improve IAQ - Phase I - Life Safety		
	Restricted Funds	500,000	-0-
023.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	-0-
024.	Improve Accessibility Project Pool		
	Restricted Funds	437,000	-0-
025.	Renovate Running Track		
	Restricted Funds	2,500,000	-0-
026.	Lease-Purchase High Performance Research Comp.		
	Restricted Funds	6,500,000	-0-
027.	Construct Medical Center Education Building		
	Restricted Funds	27,000,000	-0-
028.	Construct Environmental Institute		
	Restricted Funds	14,287,000	-0-
029.	Expand/Renovate Art Museum in Singletary Center		
	Restricted Funds	10,075,000	-0-
030.	Upgrade Pilot - Scale Mineral Process Facility		
	Restricted Funds	500,000	-0-
031.	Lease-Purchase Large Scale Computing		
	Restricted Funds	3,500,000	-0-
032.	Renovate COHR Space in the Dental Building		
	Restricted Funds	1,875,000	-0-
033.	Expand CAER Laboratories		
	Restricted Funds	3,833,000	-0-
034.	Lease-Purchase Enterprise Storage System		
	Restricted Funds	1,200,000	-0-
035.	Lease-Purchase UPS System		
	Restricted Funds	800,000	-0-
036.	Upgrade Electric & Lighting in Guignol Theatre		
	Restricted Funds	890,000	-0-
037.	Lease-Purchase Campus Infrastructure Upgrade		
	Restricted Funds	3,500,000	-0-
038.	Lab Security Systems Project Pool		
	Restricted Funds	500,000	-0-
039.	Renovate 3rd Floor Little Library		

	Restricted Funds	2,200,000	-0-
040.	Install Emergency Generator in Computing Facility		
	Restricted Funds	425,000	-0-
041.	Renovate Med. Center Library		
	Restricted Funds	5,500,000	-0-
042.	Renovate King Library South - 1930 Section		
	Restricted Funds	17,901,000	-0-
043.	Land Acquisition Pool		
	Restricted Funds	15,000,000	-0-
044.	Renovate Practice Instruction Space in Pharmacy		
	Restricted Funds	3,200,000	-0-
045.	Lease-Purchase Apartment Complex		
	Restricted Funds	11,000,000	-0-
046.	Replace Air Handling Units Central Computing Facility		
	Restricted Funds	510,000	-0-
047.	Renovate Graduate Edu. & Research Space in Nursing		
	Restricted Funds	1,600,000	-0-
048.	Renovate Bowman Hall		
	Restricted Funds	8,221,000	-0-
049.	Renovate Reynolds Building		
	Restricted Funds	12,310,000	-0-
050.	Lease-Purchase Data Warehouse		
	Restricted Funds	600,000	-0-
051.	Purchase Server/Workstation for Software		
	Restricted Funds	400,000	-0-
052.	Renovate Taylor Education Building		
	Restricted Funds	17,864,000	-0-
053.	Construct Parking Structure - Central Campus		
	Restricted Funds	17,000,000	-0-
054.	Renovate Kastle Hall		
	Restricted Funds	8,269,000	-0-
055.	Lease-Purchase Tape Library		
	Restricted Funds	500,000	-0-
056.	Expand Grehan Journalism Building		
	Restricted Funds	12,740,000	-0-
057.	Construct New Alumni Center		
	Restricted Funds	15,250,000	-0-
058.	Expand Animal Science Research Center Phase II		
	Restricted Funds	23,184,000	-0-
059.	Renovate Central Computing Facility		
	Restricted Funds	2,360,000	-0-
060.	Renovate Koinonia House		
	Restricted Funds	1,950,000	-0-
061.	Lease-Purchase Fire Suppression Upgrade		
	Restricted Funds	850,000	-0-
062.	Renovate Slone Building		
	Restricted Funds	7,993,000	-0-
063.	Purchase Police Communications Equipment		

	Restricted Funds	571,000	-0-
064.	Purchase Upgraded Integrated Library System		
	Restricted Funds	700,000	-0-
065.	Lease-Purchase Network Security Hardware		
	Restricted Funds	1,500,000	-0-
066.	Fit-up Education Space in Health Science Building		
	Restricted Funds	1,000,000	-0-
067.	Replace Steam and Condensate Pipe		
	Restricted Funds	5,000,000	-0-
068.	Replace Air Handling Units in Research #1		
	Restricted Funds	950,000	-0-
069.	Lease-Purchase Telephone Switch Convergence		
	Restricted Funds	12,000,000	-0-
070.	Upgrade Elevator Controls in Nursing Building		
	Restricted Funds	600,000	-0-
071.	Purchase Digital Media Distribution System		
	Restricted Funds	186,000	-0-
072.	Renovate School of Public Health Building		
	Restricted Funds	3,751,000	-0-
073.	Replace Nutter Football Field		
	Restricted Funds	2,000,000	-0-
074.	Lease-Purchase Unix Cluster		
	Restricted Funds	600,000	-0-
075.	Upgrade Network for Software		
	Restricted Funds	250,000	-0-
076.	Purchase Integrated Imaging System		
	Restricted Funds	130,000	-0-
077.	Lease-Purchase Video Switch Expansion		
	Restricted Funds	250,000	-0-
078.	Replace Law Building Marble Facade		
	Restricted Funds	838,000	-0-
079.	Construct Multi-Care Clinic Building		
	Restricted Funds	20,500,000	-0-
080.	Purchase Network Infrastructure Restructuring		
	Restricted Funds	160,000	-0-
081.	Lease-Purchase UPS Upgrade for Communications		
	Restricted Funds	800,000	-0-
082.	Expand Patient Parking in Structure #3		
	Restricted Funds	7,000,000	-0-
083.	Purchase GIS Remote Sensing Teaching Lab		
	Restricted Funds	160,000	-0-
084.	Replace Central Facilities Management System		
	Restricted Funds	3,000,000	-0-
085.	Renovate Photography Space in Nursing Building		
	Restricted Funds	650,000	-0-
086.	Replace Chemistry Physics Ductwork		
	Restricted Funds	2,000,000	-0-
087.	Fit-up 4th Floor BBSRB		

	Restricted Funds	3,265,000	-0-
	Federal Funds	7,735,000	-0-
	TOTAL	11,000,000	-0-
088.	Replace Central Fire Alarm System		
	Restricted Funds	2,500,000	-0-
089.	Upgrade the Vivarium in Sanders Brown Building		
	Restricted Funds	2,000,000	-0-
	Federal Funds	2,000,000	-0-
	TOTAL	4,000,000	-0-
090.	Purchase Redundant Disk Server System		
	Restricted Funds	170,000	-0-
091.	Renovate Substation #2		
	Restricted Funds	2,780,000	-0-
092.	Renovate Labs in the Pharmacy Building		
	Restricted Funds	2,000,000	-0-
	Federal Funds	2,000,000	-0-
	TOTAL	4,000,000	-0-
093.	Improve Central Heating Plant		
	Restricted Funds	4,000,000	-0-
094.	Construct Regional BL3/BL4 Facility		
	Federal Funds	50,000,000	-0-
095.	Renovate Facade - Agriculture Building North		
	Restricted Funds	4,000,000	-0-
096.	Improve Storm Sewer Funkhouser		
	Restricted Funds	1,103,000	-0-
097.	Purchase Instructional Video Studio		
	Restricted Funds	250,000	-0-
098.	Guaranteed Energy Performance Project		
099.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds	1,500,000	-0-
100.	Install Cooling Secondary Pumping		
	Restricted Funds	2,500,000	-0-
101.	Renovate Animal Facility in Tobacco & Health Building		
	Restricted Funds	1,500,000	-0-
102.	Replace Cooling Plant Chillers		
	Restricted Funds	6,000,000	-0-
103.	Renovate Imaging Center at KY Clinic		
	Restricted Funds	2,000,000	-0-
104.	Replace Master Clock and Bell System		
	Restricted Funds	1,500,000	-0-
105.	Expand Ophthalmology Clinic in Med. Plaza		
	Restricted Funds	582,000	-0-
106.	Repair Concrete Phase I General Campus		
	Restricted Funds	750,000	-0-
107.	Renovate Imaging Center I		
	Restricted Funds	530,000	-0-
108.	Repair Blacktop Phase I General Campus		
	Restricted Funds	750,000	-0-

109.	Renovate Research Labs in Med. Center, III		
	Restricted Funds	1,000,000	-0-
110.	Upgrade Electrical Substation		
	Restricted Funds	4,000,000	-0-
111.	Renovate Education Space in Med. Science		
	Restricted Funds	2,300,000	-0-
112.	Installed Chilled Water Pipe to South Campus		
	Restricted Funds	5,000,000	-0-
113.	Renovate Research Labs in Med. Center, I		
	Restricted Funds	750,000	-0-
114.	Install Chilled Water Additions General Campus		
	Restricted Funds	1,000,000	-0-
115.	Renovate Imaging Center, II		
	Restricted Funds	530,000	-0-
116.	Purchase Shared Desktop Environment		
	Restricted Funds	250,000	-0-
117.	Install Med. Center Chilled Water Loop		
	Restricted Funds	700,000	-0-
118.	Renovate Research Labs in Medical Center, IV		
	Restricted Funds	1,250,000	-0-
119.	Replace High Voltage Wiring		
	Restricted Funds	775,000	-0-
120.	Renovate Research Labs in Med. Center, II		
	Restricted Funds	900,000	-0-
121.	Replace McVey Hall HVAC		
	Restricted Funds	3,000,000	-0-
122.	Renovate Research Space Med. Center, I		
	Restricted Funds	1,500,000	-0-
123.	Replace Mathews Building HVAC		
	Restricted Funds	1,000,000	-0-
124.	Replace HVAC Slone Building		
	Restricted Funds	2,320,000	-0-
125.	Replace HVAC Kastle Hall		
	Restricted Funds	3,000,000	-0-
126.	Replace Fine Arts HVAC		
	Restricted Funds	3,000,000	-0-
127.	Replace Three Elevators MI King South		
	Restricted Funds	975,000	-0-
128.	Renovate Barker Hall		
	Restricted Funds	5,060,000	-0-
129.	Add Centralized Emergency Generator		
	Restricted Funds	5,034,000	-0-
130.	Upgrade Communication Infrastructure, II		
	Restricted Funds	450,000	-0-
131.	Expand Plant Capacity Infrastructure		
	Restricted Funds	23,000,000	-0-
132.	Renovate Teaching Space in Med. Plaza		
	Restricted Funds	500,000	-0-

133.	Install HVAC in Keeneland Hall		
	Restricted Funds	5,109,000	-0-
134.	Renovate Faculty Office Space in Med. Center		
	Restricted Funds	500,000	-0-
135.	Replace Holmes Elevator		
	Restricted Funds	641,000	-0-
136.	Renovate Foundation Offices in MRISC Building		
	Restricted Funds	500,000	-0-
137.	Install Commons Elevator		
	Restricted Funds	400,000	-0-
138.	Renovate Breast Clinic in MRISC Building		
	Restricted Funds	520,000	-0-
139.	Renovate Vivarium in Central DLAR Facility		
	Restricted Funds	1,000,000	-0-
	Federal Funds	1,000,000	-0-
	TOTAL	2,000,000	-0-
140.	Renovate Vivarium in Combs Building		
	Restricted Funds	300,000	-0-
	Federal Funds	300,000	-0-
	TOTAL	600,000	-0-
141.	Renovate Safety & Security Building		
	Restricted Funds	1,645,000	-0-
142.	Renovate DLAR General Offices in Med. Center		
	Restricted Funds	400,000	-0-
143.	Lease-Purchase UK/UofL/Frankfort Research Network		
	Restricted Funds	6,000,000	-0-
144.	Lease-Purchase ERP System		
	Restricted Funds	10,000,000	-0-
145.	Purchase Compressed Video-Hazard		
	Restricted Funds	141,000	-0-
146.	Renovate Erikson Hall		
	Restricted Funds	6,001,000	-0-
147.	Expand West Kentucky Research and Education Center		
	Restricted Funds	4,000,000	-0-
148.	Renovate Bradley Hall		
	Restricted Funds	5,216,000	-0-
149.	Purchase Digital Education Equipment		
	Restricted Funds	1,900,000	-0-
150.	Construct Gluck Equine Res. Ctr. - Phase I		
	Restricted Funds	29,835,000	-0-
151.	Addition to Lafferty Hall		
	Restricted Funds	5,195,000	-0-
152.	Upgrade Sound and Lighting for Singletary Center		
	Restricted Funds	680,000	-0-
153.	Upgrade Comm Infrastructure in Young Library		
	Restricted Funds	2,601,000	-0-
154.	Construct Horticultural Research and Education F		
	Restricted Funds	1,600,000	-0-

155.	Expand Erikson Hall		
	Restricted Funds	18,741,000	-0-
156.	Purchase Patient Classification Equipment		
	Restricted Funds	260,000	-0-
157.	Construct UK Paducah Engineering Research Center		
	Restricted Funds	1,000,000	-0-
158.	Purchase Telemedicine Rural Health		
	Restricted Funds	416,000	-0-
159.	Construct KY Transportation Center Building		
	Restricted Funds	20,699,000	-0-
	Federal Funds	2,500,000	-0-
	TOTAL	23,199,000	-0-
160.	Construct University Conference Center		
	Restricted Funds	19,605,000	-0-
161.	Replace Steam Line MC Htg. - Hosp. Drive Pit 2		
	Restricted Funds	1,180,000	-0-
162.	Replace Steam Line Lime Tunnel - Main Gate Pit		
	Restricted Funds	1,690,000	-0-
163.	Replace Steam Line Lime Tunnel - POT Tunnel		
	Restricted Funds	730,000	-0-
164.	Install Steam Line BBSRB - Old Main Gate Pit		
	Restricted Funds	4,130,000	-0-
165.	Replace Steam Line Main Gate Pit -Anderson Pit		
	Restricted Funds	1,530,000	-0-
166.	Replace Steam Line Kastle - Chem./Phys Pit 28		
	Restricted Funds	740,000	-0-
167.	Install Pollution Controls		
	Restricted Funds	1,740,000	-0-
168.	Kentucky Utilities Building - Lease		
169.	College of Medicine Off-Campus Clinic - Lease		
170.	College of Pharmacy-Contracted Program - Lease		
171.	Med. Center - Grant Projects - Lease		
172.	Med. Center Off-Campus Patient Facility - Lease		
173.	Med. Center Contract Sponsored Programs - Lease		
174.	Clinic Blazer Parkway - Lease		
175.	Expand Surgical Services - Hospital		
	Restricted Funds	3,531,000	-0-
176.	Create Universal Nursing Unit-Hospital		
	Restricted Funds	964,000	-0-
177.	Upgrade Outpatient Surgical Suite - Hospital		
	Restricted Funds	2,500,000	-0-
178.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,160,000	-0-
179.	Modify Nursing Unit XII - Hospital		
	Restricted Funds	3,936,000	-0-
180.	Construct Imaging Facility - Hospital		
	Restricted Funds	10,035,000	-0-
181.	Upgrade Cancer Ctr. Radiologic Facility - Hospital		

	Restricted Funds	6,000,000	-0-
182.	Construct Cancer Urgent Treatment Facility - Hospital		
	Restricted Funds	10,562,000	-0-
183.	Upgrade Surgical Suite - Hospital		
	Restricted Funds	2,600,000	-0-
184.	Construct Radiation Medicine Facility - Hospital		
	Restricted Funds	6,047,000	-0-
185.	Upgrade Transport Systems V - Hospital		
	Restricted Funds	800,000	-0-
186.	Expand Operating Room Suites - Hospital		
	Restricted Funds	3,547,000	-0-
187.	Expand Parking Structure #4 - Hospital		
	Restricted Funds	3,620,000	-0-
188.	Upgrade Building/Site IV - Hospital		
	Restricted Funds	800,000	-0-
189.	Upgrade HVAC II - Hospital		
	Restricted Funds	3,500,000	-0-
190.	Construct Radiation Med. Facility II - Hospital		
	Restricted Funds	2,548,000	-0-
191.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds	1,500,000	-0-
192.	Upgrade Operating Room Suites II - Hospital		
	Restricted Funds	12,162,000	-0-
193.	Replace AHU I - Hospital		
	Restricted Funds	15,553,000	-0-
194.	Replace AHU I - Roach		
	Restricted Funds	1,000,000	-0-
195.	Replace AHU II - Roach		
	Restricted Funds	1,000,000	-0-
196.	Construct Cancer Hospice Facility - Hospital		
	Restricted Funds	4,000,000	-0-
197.	Construct Cancer Education Facility - Hospital		
	Restricted Funds	2,000,000	-0-
198.	Construct Cancer Infusion Suites - Hospital		
	Restricted Funds	5,590,000	-0-
199.	Construct Remote Cancer Clinic - Hospital		
	Restricted Funds	12,500,000	-0-
200.	Construct Physicians Svcs. Facilities - Hospital		
	Restricted Funds	2,000,000	-0-
201.	Upgrade Emergency Services II - Hospital		
	Restricted Funds	12,000,000	-0-
202.	Upgrade Information Systems Svcs. - Hospital		
	Restricted Funds	3,467,000	-0-
203.	Upgrade Diagnostic Radiology - Hospital		
	Restricted Funds	3,000,000	-0-
204.	Upgrade Communication Svs. - Hospital		
	Restricted Funds	1,000,000	-0-
205.	Construct Business Facility II - Hospital		

	Restricted Funds	10,840,000	-0-
206.	Construct Outpt. Care Facility II - Hospital		
	Restricted Funds	8,148,000	-0-
207.	Construct Bldg. Connectors III - Hospital		
	Restricted Funds	3,047,000	-0-
208.	Construct Primary Care Center II - Hospital		
	Restricted Funds	13,017,000	-0-
209.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	11,477,000	-0-
210.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	-0-
211.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,000,000	-0-
212.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	-0-
213.	Implement Land Use Plan IV - Hospital		
	Restricted Funds	2,500,000	-0-
214.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds	1,000,000	-0-
215.	Construct Outpatient Svs. III - Hospital		
	Restricted Funds	8,004,000	-0-
216.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	-0-
217.	Renovate Medical Records Suite I - Hospital		
	Restricted Funds	566,000	-0-
218.	Guaranteed Energy Savings Project		
219.	Purchase Patient System Enterprise		
	Restricted Funds	4,640,000	-0-
220.	Purchase Upgrade for Servers		
	Restricted Funds	800,000	-0-
221.	Purchase Upgrade - HIS Computing Facility		
	Restricted Funds	2,900,000	-0-
222.	Purchase Clinical System Enterprise		
	Restricted Funds	5,800,000	-0-
223.	Purchase Computing Infrastructure Update		
	Restricted Funds	2,500,000	-0-
224.	Purchase Data Storage Facility Upgrade		
	Restricted Funds	750,000	-0-
225.	Purchase Dig. Medical Record Expansion		
	Restricted Funds	4,640,000	-0-
226.	Purchase Managed Care Enterprise		
	Restricted Funds	1,160,000	-0-
227.	Purchase Data Storage Equipment & Software I		
	Restricted Funds	500,000	-0-
228.	Purchase Telecommunications Equipment I		
	Restricted Funds	250,000	-0-
229.	Purchase PACS Data Storage Equipment & Software		
	Restricted Funds	500,000	-0-

230.	Purchase IS Security Equipment I		
	Restricted Funds	150,000	-0-
231.	Purchase Data Center Printers I		
	Restricted Funds	350,000	-0-
232.	Purchase Data Storage Equipment & Software II		
	Restricted Funds	250,000	-0-
233.	Purchase Telecommunications Equipment II		
	Restricted Funds	200,000	-0-
234.	Purchase Mainframe Computer		
	Restricted Funds	400,000	-0-
235.	Purchase IS Security Equipment II		
	Restricted Funds	150,000	-0-
236.	Purchase Data Center Printers II		
	Restricted Funds	300,000	-0-
237.	Purchase Knowledge-based Transcription		
	Restricted Funds	450,000	-0-
238.	Purchase Knowledge-based Charting System		
	Restricted Funds	400,000	-0-
239.	Purchase Consumer Web Interaction System		
	Restricted Funds	400,000	-0-
240.	Purchase Data Storage Equipment & Software III		
	Restricted Funds	150,000	-0-
241.	Purchase Telecommunications Equipment III		
	Restricted Funds	150,000	-0-

9. UNIVERSITY OF LOUISVILLE

001.	Major Item of Equipment Pool		
	Restricted Funds	12,154,000	-0-
002.	Construct - HSC Research Facility, Phase III		
	Restricted Funds	12,000,000	-0-
	Bond Funds	19,000,000	-0-
	Agency Bonds	67,000,000	-0-
	TOTAL	98,000,000	-0-

(1) Construct - HSC Research Facility, Phase III: A portion of the General Fund supported bonds may be made available to the University for the above project prior to the issuance of the Agency Bonds and after the submission of a letter of request by the University President to, and acceptance by, the Secretary of the Finance and Administration Cabinet. The letter shall include an affirmation of the University's intent to proceed with the issuance of Agency Bonds prior to submitting its budget request for the 2006-2008. Full access to the state bond funds may be made available to the project upon the approval by the Secretary of the Finance and Administration Cabinet of a plan of action submitted by the University, including a financial plan and timeline for the issuance of the Agency Bonds, at any time prior to November 15, 2005.

003.	Renovate Capital Renewal Pool		
	Restricted Funds	13,746,000	-0-
004.	Renovate Code Improvement Pool		
	Restricted Funds	3,191,000	-0-
005.	Guaranteed Energy Savings Project		
006.	Renovate Shelby Campus Infrastructure		
	Restricted Funds	8,740,000	-0-
007.	Renovate Student Serv. Bldg. - Houchens, Ph II		
	Restricted Funds	6,302,000	-0-

008.	Renovate Medical Dental Res. Building, Phase IV		
	Restricted Funds	17,986,000	-0-
009.	Renovate Chemistry Fume Hood Redesign, Ph II		
	Restricted Funds	4,198,000	-0-
010.	Expand Oppenheimer Hall for Social Work		
	Reauthorization ($5,450,000 Restricted Funds)		
011.	Purchase Digital Communications System		
	Restricted Funds	1,000,000	1,000,000
012.	Purchase Networking System		
	Restricted Funds	1,500,000	1,500,000
013.	Renovate Natural Science Building		
	Restricted Funds	11,890,000	-0-
014.	Purchase CPU System		
	Restricted Funds	460,000	-0-
015.	Purchase Enhanced Library System Software		
	Restricted Funds	250,000	-0-
016.	Purchase PCs, Printers, Laptops		
	Restricted Funds	149,000	-0-
017.	Purchase Support Service Land (NE Quad)		
	Restricted Funds	4,632,000	-0-
018.	Purchase Electronic Research Information System		
	Restricted Funds	1,080,000	-0-
019.	Renovate Dental Clinics - First Floor		
	Restricted Funds	8,614,000	-0-
020.	Purchase Artificial Turf - Practice Field Facility		
	Restricted Funds	750,000	-0-
021.	Purchase Computer Processing System		
	Restricted Funds	1,800,000	200,000
022.	Purchase Storage System		
	Restricted Funds	600,000	400,000
023.	Purchase Enterprise Application System		
	Restricted Funds	1,000,000	1,000,000
024.	Digital Output System		
	Restricted Funds	500,000	500,000
025.	Visualization System		
	Restricted Funds	500,000	500,000
026.	Construct Res. Hall, 276 Beds, Ph. III, Com. Park		
	Restricted Funds	-0-	10,180,000
027.	Renovate Medical School Tower-55A, Phase I		

	Restricted Funds	3,841,000	-0-
028.	Expand Ambulatory Care Bldg. Academic Addition		
	Restricted Funds	39,872,000	-0-
029.	Purchase Real Estate Near HSC & Ren. Offices		
	Restricted Funds	20,500,000	-0-
030.	Renovate & Purchase Home of the Innocents Property		
	Restricted Funds	7,301,000	-0-
031.	Construct Utilities, Remove Overhead Lines		
	Restricted Funds	-0-	2,957,000
032.	Renovate Housing - Capital Renewal Pool		
	Restricted Funds	2,476,000	-0-
033.	Renovate Housing - Code Improvements Pool		
	Restricted Funds	709,000	-0-
034.	Construct Diversity Center for Excellence		
	Restricted Funds	-0-	5,434,000
035.	Jefferson County - Lease		
10.	**WESTERN KENTUCKY UNIVERSITY**		
001.	Math and Science Academy Renovation		
	Restricted Funds	3,500,000	-0-
	Bond Funds	2,500,000	-0-
	Agency Bonds	4,000,000	-0-
	TOTAL	10,000,000	-0-
002.	Renovate Science Campus - Phase II		
	Bond Funds	27,000,000	-0-
003.	Repair Mold/Moisture Damage		
	Restricted Funds	1,612,000	-0-
004.	Renovate Electrical Distribution - Phase V		
	Restricted Funds	3,747,000	-0-
005.	Renovate Central Heat Plant - Phase I Reauthorization ($1,273,000 Restricted Funds)		
006.	Life Safety, Center for Research and Development		
	Restricted Funds	500,000	-0-
007.	Purchase Buses/Construct Bus Transportation Center		
	Restricted Funds	4,000,000	-0-
008.	Prepare IT Infrastructure		
	Restricted Funds	3,000,000	-0-
009.	Guaranteed Energy Savings Project		
010.	Construct Radio and Television Transmission Tower		
	Restricted Funds	615,000	-0-
011.	Purchase Digital Television Transmission System Reauthorization ($1,993,000 Restricted Funds, $1,328,000 Federal Funds)		
012.	Purchase Property for Campus Expansion		
	Restricted Funds	3,000,000	-0-
013.	Construct Academic-Athletic Performance Center		

	Restricted Funds	9,000,000	-0-
014.	Acquire Video Server		
	Restricted Funds	800,000	-0-
015.	Expand Campus Network - Phase II		
	Restricted Funds	785,000	-0-
016.	Secure Network Log-On System		
	Restricted Funds	800,000	-0-
017.	Replace Server		
	Reauthorization ($880,000 Restricted Funds)		
018.	Center KY Regional Postsecondary Education Center, Phase II, Design		
	Restricted Funds	1,625,000	-0-
019.	Renovate Grise Hall - Design		
	Restricted Funds	1,398,000	-0-
020.	Implement Wireless Communication System		
	Restricted Funds	2,000,000	-0-
021.	Renovate Garrett Conference Center - Design		
	Reauthorization ($858,000 Restricted Funds)		
022.	Renovate Academic Athletic #2, Design		
	Restricted Funds	2,000,000	-0-
023.	Downing University Center Dining Renovation Phase II/Other Dining Improvements		
	Other Funds	2,000,000	-0-
024.	Van Meter Overlook Project		
	Other Funds	800,000	-0-
11.	**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM (KCTCS)**		
001.	Gateway CTC-Expand Edgewood Campus		
	Bond Funds	14,070,000	-0-
	Restricted Funds	1,000,000	-0-
	TOTAL	15,070,000	-0-
002.	Warren County Technology Center		
	Bond Funds	5,500,000	-0-
003.	Capital Renewal and Deferred Maintenance Pool		
	Restricted Funds	5,240,000	-0-
004.	Ashland Community Technology Center		
	Bond Funds	12,066,000	-0-
	Restricted Funds	1,000,000	-0-
	TOTAL	13,066,000	-0-
005.	Construct Owensboro Advanced Technology Center		
	Bond Funds	13,088,000	-0-
	Restricted Funds	1,000,000	-0-
	TOTAL	14,088,000	-0-
006.	Construct Technology Building, Madisonville CC		
	Restricted Funds	5,000,000	-0-
	Bond Funds	7,000,000	-0-

	TOTAL	12,000,000	-0-
007.	Construct Franklin/Simpson Technology Center		
	Bond Funds	4,000,000	-0-
008.	Renovate Aircraft Maintenance Lab, Somerset CC, South Campus		
	Bond Funds	1,500,000	-0-
009.	KCTCS Information Tech Infrastructure Upgrade		
	Restricted Funds	12,000,000	-0-
010.	Renovate HVAC Syst. SE Campus, Owensboro C&TC		
	Restricted Funds	625,000	-0-
011.	Construct Area 9 Training Bldg. State Fire & Rescue		
	Restricted Funds	537,000	-0-
012.	Property Acquisition Pool		
	Restricted Funds	1,100,000	-0-
013.	Install Sprinkler Systems, West Ky. C&TC		
	Restricted Funds	600,000	-0-
014.	Repairs to Allied Health Bldg. West Ky. C&TC		
	Restricted Funds	750,000	-0-
015.	Renovate HVAC System - Strunk Bldg., Somerset CC		
	Restricted Funds	894,000	-0-
016.	Renovate HVAC System - Meece Bldg., Somerset CC		
	Restricted Funds	859,000	-0-
017.	Purchase Diagnostic Medical Sonography Unit		
	Restricted Funds	110,000	-0-
018.	Guaranteed Energy Savings Project		
019.	Henderson CC - Lease for Applied Technology Program		
020.	Jefferson CC - Jefferson Education Center Lease		
021.	System Office - Lease-Purchase with the City of Versailles		
022.	Multi-Engine Aircraft - Somerset CC		
	Restricted Funds	575,000	-0-
023.	Henderson CC Tri-County Technical Center		
	Bond Funds	13,066,000	-0-

K. TRANSPORTATION CABINET

Budget Units		2004-05	2005-06
1.	**GENERAL ADMINISTRATION AND SUPPORT**		
001.	Overhead Doors and Emergency Repair		
	Road Fund	200,000	200,000
002.	Construction or Repair Salt Structure		
	Road Fund	250,000	250,000
003.	Remove Hazardous Materials		
	Road Fund	50,000	50,000

004.	Building Renovation and Emergency Repairs		
	Road Fund	420,000	420,000
005.	Pro. Management (PRECON/6 YR Plan)		
	Road Fund	2,000,000	-0-
006.	Construct Louisville District Office		
	Road Fund	5,950,000	-0-
007.	Address Water and Wastewater		
	Road Fund	100,000	100,000
008.	Painting and Roof Repair or Replacement		
	Road Fund	219,000	218,000
009.	Road Maintenance Parks		
	Road Fund	1,500,000	1,500,000
010.	Conduct Paving and Landscaping		
	Road Fund	50,000	50,000
011.	Repair Loadometer and Rest Areas		
	Road Fund	460,000	460,000
012.	Various Environmental Compliance		
	Road Fund	1,000,000	1,000,000

L. COAL SEVERANCE TAX PROJECTS

(1) Projects Authorization and Appropriation: Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2004-2005 and fiscal year 2005-2006 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

(2) Water and Sewer Projects: The following projects that are related to water and sewer shall be administered by the Kentucky Infrastructure Authority.

1. GENERAL GOVERNMENT

	Budget Unit	2003-04	2004-05
a.	**Local Government**		
Bell County			
001.	Bell County Fiscal Court - 1st Tee Program - Operating		
	Restricted Funds	2,500	2,500
002.	Bell County Fiscal Court - Bell County Health Department - Operations		
	Restricted Funds	5,000	5,000
003.	Bell County Fiscal Court - Bell County Public Library - Operations		
	Restricted Funds	5,000	5,000
004.	Bell County Fiscal Court - City of Middlesboro - Water and/or Other Projects		
	Restricted Funds	100,000	100,000
005.	Bell County Fiscal Court - City of Pineville - Water and /or Other Projects		
	Restricted Funds	50,000	50,000
006.	Bell County Fiscal Court - Frakes Volunteer Fire Department - Operations and Equipment		

	Restricted Funds	5,000	5,000
007.	Bell County Fiscal Court - History Museum - Operations		
	Restricted Funds	5,000	5,000
008.	Bell County Fiscal Court - Interfaith of Bell County - Operations for Homeless Shelter		
	Restricted Funds	2,500	2,500
009.	Bell County Fiscal Court - Lighthouse Mission - Operations for Food, Clothing, Pantry and Medical Clinic		
	Restricted Funds	10,000	10,000
010.	Bell County Fiscal Court - P38 Musuem - Operations		
	Restricted Funds	15,000	15,000
011.	Bell County Fiscal Court - Rescue Squad - Operations and Equipment		
	Restricted Funds	5,000	5,000
012.	Bell County Fiscal Court - Sheriff's Department - Operations and Equipment		
	Restricted Funds	10,000	10,000
013.	Bell County Fiscal Court - Water and/or Other Projects		
	Restricted Funds	650,000	650,000
Boyd County			
001.	Ashland Board of Education - Construction and Facility Improvements		
	Restricted Funds	27,500	-0-
002.	Ashland School District - Charles Russell Elementary - Equipment, Building and Ground Improvements		
	Restricted Funds	5,000	-0-
003.	Boyd County Board of Education - Boyd County High School - New Construction, Facility and Ground Improvements		
	Restricted Funds	-0-	87,722
004.	Boyd County Board of Education - Boyd County Middle School - Construction and Facility Improvements		
	Restricted Funds	27,500	-0-
005.	Boyd County Fiscal Court - Boyd County Fair - Building and Ground Improvements		
	Restricted Funds	10,000	-0-
006.	Boyd County Fiscal Court - Hopes Place Building - Improvements		
	Restricted Funds	10,000	-0-
007.	Boyd County Fiscal Court - Infrastructure, County Facilites and Ground Improvements		
	Restricted Funds	20,828	-0-
008.	Boyd County Fiscal Court - Safe Harbor Building Improvements		
	Restricted Funds	10,000	-0-
009.	City of Catlettsburg - Infrastructure Improvements		
	Restricted Funds	25,000	-0-
010.	Fairview Independent Board of Education - Construction and Facility Improvements		
	Restricted Funds	20,000	-0-
Breathitt County			
001.	Breathitt County Fiscal Court - Family Life Skills Center - Operating		

	Restricted Funds	75,000	75,000
002.	Breathitt County Fiscal Court - Inter-Generation Center - Operating		
	Restricted Funds	275,000	275,000
Butler County			
001.	Butler County Fiscal Court - Fire Departments - Equipment, Improvements, and Operating		
	Restricted Funds	104,149	-0-
Carter County			
001.	Carter County Fiscal Court - Carter Search and Rescue - Equipment		
	Restricted Funds	5,000	-0-
002.	Carter County Fiscal Court - Fire Departments - Equipment		
	Restricted Funds	50,000	-0-
003.	Carter County Fiscal Court - Park Development		
	Restricted Funds	10,000	-0-
004.	Carter County Fiscal Court - Skatepark Design and Feasibility Study		
	Restricted Funds	5,000	-0-
005.	Carter County Fiscal Court - Someday Outdoor Drama - Operations/Equipment/Improvements		
	Restricted Funds	5,000	-0-
006.	Grayson City Council - Parks and Recreation - Improvements and Equipment		
	Restricted Funds	25,000	-0-
007.	Olive Hill City Council - Downtown Beautification and Economic Development		
	Restricted Funds	25,000	-0-
Christian County			
001.	Christian County Fiscal Court - Water Line Expansion Funds		
	Restricted Funds	100,000	100,000
Clay County			
001.	Clay County Fiscal Court - Administrative Building - Improvements		
	Restricted Funds	233,576	153,155
002.	Clay County Fiscal Court - Divided Between Ten Fire Departments - Equipment		
	Restricted Funds	30,000	-0-
Daviess County			
001.	Daviss County Fiscal Court - Kentucky Highway 144 - Road Safety and Improvement Project		
	Restricted Funds	140,597	-0-
Elliott County			
001.	Elliott County Fiscal Court - 504 Fire Department - Construction		
	Restricted Funds	10,000	20,000
002.	City of Sandy Hook - Downtown Beautification, Sidewalk and Street Repairs		
	Restricted Funds	15,000	5,000
003.	Elliott County Board of Education - Building and Ground Improvements - Program and Curriculum Enhancements		

	Restricted Funds	35,000	35,000
004.	Elliott County Board of Education - Elliott County Public Library - Curriculum, Program and Equipment Enhancements		
	Restricted Funds	17,349	10,983
005.	Elliott County Fiscal Court - Citco Fire Department - Construction and Equipment		
	Restricted Funds	10,000	10,000
006.	Elliott County Fiscal Court - Elliott County Ambulance Service - Equipment		
	Restricted Funds	10,000	-0-
007.	Elliott County Fiscal Court - Isonville Fire Department - Equipment and Improvements		
	Restricted Funds	10,000	10,000
Floyd County			
001.	City of Martin - Flood Control		
	Restricted Funds	20,000	20,000
002.	Floyd County Fiscal Court - Water and Sewer Lines		
	Restricted Funds	25,000	25,000
003.	Floyd County Fiscal Court - Court House Renovation		
	Restricted Funds	100,000	-0-
004.	Floyd County Fiscal Court - Economic Development Initiatives		
	Restricted Funds	250,000	60,000
005.	Floyd County Fiscal Court - Elkhorn Education Project - Minnie		
	Restricted Funds	15,000	15,000
006.	Floyd County Fiscal Court - Fire Departments (17) - Equipment and Operations		
	Restricted Funds	37,500	37,500
007.	Floyd County Fiscal Court - Fire Hydrant and Saddles		
	Restricted Funds	50,000	-0-
008.	Floyd County Fiscal Court - Jenny Wiley Recreation Area or Bond Reduction		
	Restricted Funds	-0-	700,000
009.	Floyd County Fiscal Court - Martin Community Center Drug Prevention - Operating		
	Restricted Funds	-0-	30,000
010.	Floyd County Fiscal Court - Moutain Top Recreation - Operating		
	Restricted Funds	125,000	75,000
011.	Floyd County Fiscal Court - Park Improvements		
	Restricted Funds	125,000	75,000
012.	Floyd County Fiscal Court - Senior Citizens Centers - Operating		
	Restricted Funds	56,000	56,000
013.	Floyd County Fiscal Court - Stabilization Moutain Top Structure for Economic Development		
	Restricted Funds	50,000	-0-
014.	Floyd County Fiscal Court - Water Line Extensions		
	Restricted Funds	50,000	-0-
015.	Floyd County Fiscal Court - Wet Tap Machine (Water Lines)		

	Restricted Funds	7,500	-0-

Greenup County

001.	City of Flatwoods - Flatwoods Fire Department - Equipment		
	Restricted Funds	5,000	-0-
002.	City of Greenup - Greenup Fire Department - Equipment		
	Restricted Funds	5,000	-0-
003.	City of Raceland - Raceland Fire Department - Equipment		
	Restricted Funds	5,000	-0-
004.	City of Russell - Russell Volunteer Fire Department - Equipment		
	Restricted Funds	5,000	-0-
005.	City of South Shore - South Shore Volunteer Fire Department - Equipment		
	Restricted Funds	5,000	-0-
006.	City of South Shore - Study and Engineering for Expansion of Sewer System		
	Restricted Funds	20,000	-0-
007.	City of Worthington - Worthington Fire Department - Equipment		
	Restricted Funds	5,000	-0-
008.	City of Wurtland - Wurtland Fire Department - Equipment		
	Restricted Funds	5,000	-0-
009.	Greenbo Lake State Resort Park - Planning and Design of Cabins		
	Restricted Funds	-0-	15,000
010.	Greenup County Fair Board - Improvements		
	Restricted Funds	-0-	8,000
011.	Greenup County Fiscal Court - Amphitheatre at Greenbo Lake State Resort Park - Improvements		
	Restricted Funds	35,000	-0-
012.	Greenup County Fiscal Court - Boat Docks and Canoe Put-ins		
	Restricted Funds	47,000	-0-
013.	Greenup County Fiscal Court - Greenup County High School - Improvements		
	Restricted Funds	-0-	4,955
014.	Greenup County Fiscal Court - Greenup County Adult Education - Operating		
	Restricted Funds	-0-	800
015.	Greenup County Fiscal Court - Guardrail on State Route 2070		
	Restricted Funds	20,000	-0-
016.	Greenup County Fiscal Court - Little Sandy Volunteer Fire Department - Equipment		
	Restricted Funds	5,000	-0-
017.	Greenup County Fiscal Court - Lloyd Volunteer Fire Department - Equipment		
	Restricted Funds	5,000	-0-
018.	Greenup County Fiscal Court - Load Fire Department - Equipment		

	Restricted Funds	5,000	-0-
019.	Greenup County Fiscal Court - Malonton Fire Department - Equipment		
	Restricted Funds	5,000	-0-
020.	Greenup County Fiscal Court - Oldtown Volunteer Fire Department - Equipment		
	Restricted Funds	5,000	-0-
021.	Greenup County Fiscal Court - Paving, Blacktop and Road Repair		
	Restricted Funds	-0-	20,000
022.	Greenup County Fiscal Court - Raceland-Worthington High School - Improvements		
	Restricted Funds	-0-	4,955
023.	Greenup County Fiscal Court - Russell High School - Improvements		
	Restricted Funds	-0-	4,955
024.	Greenup County Fiscal Court - Welcome to Greenup County Sign on Industrial Parkway		
	Restricted Funds	-0-	4,200
025.	Greenup County Tourism Commission - Welcome Sign on US 23 near KY side of US Grant Bridge		
	Restricted Funds	5,000	-0-
Harlan County			
001.	Harlan County Fiscal Court - $5,000 for Each Existing Volunteer Fire Department - Operations/Equipment		
	Restricted Funds	-0-	65,000
002.	Harlan County Fiscal Court - $5,000 for Each Rescue Squad for Operations/Equipment		
	Restricted Funds	10,000	10,000
003.	Harlan County Fiscal Court - ARH Indigent Program - Operations		
	Restricted Funds	-0-	100,000
004.	Harlan County Fiscal Court - Bledsoe - Green Hill Water Expansion		
	Restricted Funds	-0-	100,000
005.	Harlan County Fiscal Court - Bledsoe Community Center - Operations/Improvements		
	Restricted Funds	20,000	-0-
006.	Harlan County Fiscal Court - Building and Equipment		
	Restricted Funds	100,000	80,000
007.	Harlan County Fiscal Court - Camp Blanton Repairs/Improvements		
	Restricted Funds	30,000	25,000
008.	Harlan County Fiscal Court - Cawood Ledford Boys and Girls Club - Operations/Equipment		
	Restricted Funds	-0-	54,165
009.	Harlan County Fiscal Court - City of Cumberland - Operations and Equipment		
	Restricted Funds	45,000	25,000
010.	Harlan County Fiscal Court - City of Evarts - Operations/Equipment		
	Restricted Funds	20,000	25,000

011.	Harlan County Fiscal Court - City of Harlan - Inspection and Repair Sewer - Downtown and Grays Knob		
	Restricted Funds	200,000	100,000
012.	Harlan County Fiscal Court - City of Harlan - Operations/Equipment		
	Restricted Funds	-0-	35,000
013.	Harlan County Fiscal Court - City of Loyall - City Improvements/Park and Operations Center of Harlan		
	Restricted Funds	15,000	15,000
014.	Harlan County Fiscal Court - City of Lynch - Operations/Equipment/Sewers		
	Restricted Funds	70,000	25,000
015.	Harlan County Fiscal Court - Cumberland River Comprehensive Care - Operations/Equipment		
	Restricted Funds	-0-	100,000
016.	Harlan County Fiscal Court - Harlan County Drug Rehab - Operations		
	Restricted Funds	-0-	40,000
017.	Harlan County Fiscal Court - Harlan County Tourism - Operating		
	Restricted Funds	75,000	50,000
018.	Harlan County Fiscal Court - Harlan County Utility District Formation		
	Restricted Funds	75,000	50,000
019.	Harlan County Fiscal Court - Harlan Court Jail - Operating/Equipment/Improvements		
	Restricted Funds	200,000	300,000
020.	Harlan County Fiscal Court - Mountain Comp Health Care/Clinic		
	Restricted Funds	-0-	100,000
021.	Harlan County Fiscal Court - Old Courthouse Repairs		
	Restricted Funds	50,000	50,000
022.	Harlan County Fiscal Court - Pathfork Park - Improvements		
	Restricted Funds	5,000	5,000
023.	Harlan County Fiscal Court - Senior Citizens Center - Expansion of Service and Repairs		
	Restricted Funds	50,000	40,000
024.	Harlan County Fiscal Court - Water Line Expansion - Pathfork, Cranks and Day Branch		
	Restricted Funds	500,000	-0-
025.	Harlan County Fiscal Court for Southeast Community College Foundation - Improvements Portal 31/Golf Course/Benham Inn		
	Restricted Funds	100,000	150,000

Henderson County

001.	Henderson County Fiscal Court - Construction Multi-Purpose Pole Barn		
	Restricted Funds	131,129	131,129
002.	Henderson County Fiscal Court - Henderson County Airport - Purchase of Snow Removal Equipment		
	Restricted Funds	15,000	15,000
003.	Henderson County Fiscal Court - Henderson County Fair Grounds -		

	Construction Bathroom and Shelter		
	Restricted Funds	75,000	75,000
004.	Henderson County Fiscal Court - Henderson County Riverport - Asphalt and Drainage System and Hold Area		
	Restricted Funds	25,000	25,000
Hopkins County			
001.	City of Dawson Springs - Darby House Transportation Museum and Welcome Center		
	Restricted Funds	80,000	-0-
002.	City of Earlington - Sidewalk Project		
	Restricted Funds	200,000	-0-
003.	City of Hanson - Parking Lot Project		
	Restricted Funds	50,000	-0-
004.	City of Mortons Gap - Sidewalk Project		
	Restricted Funds	20,000	-0-
005.	City of Nebo - City Hall/Community Center Project		
	Restricted Funds	60,000	-0-
006.	City of Nortonville - City Hall/Museum - Renovations		
	Restricted Funds	100,000	-0-
007.	City of St. Charles - Community Park/Recreation Area		
	Restricted Funds	10,000	-0-
008.	City of White Plains - Municipal Building Project		
	Restricted Funds	200,000	-0-
009.	Hopkins County Fiscal Court - Economic Development Land Acquisition Project		
	Restricted Funds	530,000	-0-
010.	Hopkins County Fiscal Court - Geographic Information Systems Project		
	Restricted Funds	105,000	-0-
011.	Hopkins County Fiscal Court - Government Center - Roof Repair		
	Restricted Funds	75,000	-0-
012.	Hopkins County Fiscal Court - Volunteer Fire Departments		
	Restricted Funds	70,000	-0-
013.	Pennyrile Allied Community Services - Expansion and Renovation of Regional Senior Citizens Center in Madisonville		
	Restricted Funds	400,000	-0-
Jackson County			
001.	Jackson County Fiscal Court - Equipment Purchase		
	Restricted Funds	19,080	32,713
002.	Jackson County Fiscal Court - Kelly Road Water Lines		
	Restricted Funds	16,518	-0-
Johnson County			
001.	Johnson County Fiscal Court - Fire Departments for Equipment Purchases		
	Restricted Funds	35,000	35,000
002.	Johnson County Fiscal Court - Johnson County Sheriff's Department - Equipment Purchase		
	Restricted Funds	120,000	-0-
Knott County			

001.	Knott County Fiscal Court - Ball Creek Park - Improvements, Equipment, and Operating		
	Restricted Funds	10,000	10,000
002.	Knott County Fiscal Court - Ball Creek Volunteer Fire Department - Equipment, Operating, and Improvements		
	Restricted Funds	10,000	10,000
003.	Knott County Fiscal Court - Beaver Park - Lights, Restrooms and Concessions		
	Restricted Funds	200,000	-0-
004.	Knott County Fiscal Court - Carr Fork Volunteer Fire Department - Equipment, Improvements, Operating		
	Restricted Funds	10,000	10,000
005.	Knott County Fiscal Court - Dry Creek Park - Improvements and Equipment		
	Restricted Funds	5,000	5,000
006.	Knott County Fiscal Court - Fisty Volunteer Fire Department - Equipment, Operating, Improvements		
	Restricted Funds	10,000	10,000
007.	Knott County Fiscal Court - Hindman Park - Improvements and Equipment		
	Restricted Funds	10,000	10,000
008.	Knott County Fiscal Court - Hindman Volunteer Fire Department - Equipment, Operating, Improvements		
	Restricted Funds	10,000	10,000
009.	Knott County Fiscal Court - Jones Fork Park - Improvements and Equipment		
	Restricted Funds	10,000	10,000
010.	Knott County Fiscal Court - Jones Fork Volunteer Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	10,000	10,000
011.	Knott County Fiscal Court - KDAC, Inc. - Purchase of Office Equipment		
	Restricted Funds	5,000	-0-
012.	Knott County Fiscal Court - Kite Park - Improvements and Equipment		
	Restricted Funds	10,000	10,000
013.	Knott County Fiscal Court - Kite Topmost Volunteer Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	10,000	10,000
014.	Knott County Fiscal Court - Knott County Business Incubator - Operating, Improvements, Equipment		
	Restricted Funds	500,000	-0-
015.	Knott County Fiscal Court - Knott County Coroner Suburban - Radio Communication Equipment, Warning Lights, Stretcher and Equipment		
	Restricted Funds	39,180	-0-
016.	Knott County Fiscal Court - Knott County Emergency Resuce Squad and Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	10,000	10,000
017.	Knott County Fiscal Court - Knott County Public Library - Operating, Equipment, Improvements		
	Restricted Funds	160,000	50,000

018.	Knott County Fiscal Court - Knott County Senior Citizens Center - Operating, Improvements, Equipment		
	Restricted Funds	56,000	-0-
019.	Knott County Fiscal Court - Knott County Youth Foundation, Inc - Operating and Improvements		
	Restricted Funds	250,000	75,000
020.	Knott County Fiscal Court - Lotts Creek Volunteer Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	10,000	10,000
021.	Knott County Fiscal Court - Lotts Creek Water Line Completion		
	Restricted Funds	50,000	-0-
022.	Knott County Fiscal Court - Old Knott County Courthouse - Refurbishing		
	Restricted Funds	50,000	-0-
023.	Knott county Fiscal Court - Pippa Passes Volunteer Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	10,000	10,000
024.	Knott County Fiscal Court - Red Fox Park - Improvements and Equipment		
	Restricted Funds	10,000	10,000
025.	Knott County Water and Sewer District - Ball Creek Water Project		
	Restricted Funds	-0-	427,960
026.	Knott County Water and Sewer District - Combs Branch Water Project		
	Restricted Funds	66,000	-0-
027.	Knott County Water and Sewer District - Irishman Creek Water Project (WX21119004)		
	Restricted Funds	-0-	500,000

Knox County

001.	Knox County Utility Commission - Water Line Extensions		
	Restricted Funds	500,000	-0-

Laurel County

001.	Laurel County Water District II - Sublimity		
	Restricted Funds	84,376	-0-

Lawrence County

001.	City of Louisa - Downtown Beautification, Sidewalk, Street and City Park Improvements		
	Restricted Funds	47,000	-0-
002.	Lawrence County Board of Education - Facility and Ground Improvements - Refurbish Outdoor Facilities		
	Restricted Funds	100,000	-0-
003.	Lawrence County Fiscal Court - Blaine City Park - Various Construction, Equipment and Ground Improvements		
	Restricted Funds	25,000	-0-
004.	Lawrence County Fiscal Court - Chapman Park Improvements - Various Construction, Equipment and Ground Improvements		
	Restricted Funds	20,000	-0-
005.	Lawrence County Fiscal Court - Divided among Seven Fire Departments Equally - Equipment		

	Restricted Funds	-0-	70,000
006.	Lawrence County Fiscal Court - Economic Development & Tourism - Pleasant Ridge Park - Various Park Improvements, New Construction, Upgrades and Infrastructure		
	Restricted Funds	80,000	45,000
007.	Lawrence County Fiscal Court - Fallsburg Community Center - Building and Ground Improvements		
	Restricted Funds	25,000	-0-
008.	Lawrence County Fiscal Court - Various Economic Development Projects, Water and Sewer, Industrial Site Upgrades and Improvements		
	Restricted Funds	-0-	90,206
Lee County			
001.	Lee County Fiscal Court - Ambulance Equipment		
	Restricted Funds	90,000	-0-
002.	Lee County Fiscal Court - Fire Department - Equipment		
	Restricted Funds	50,000	-0-
003.	Lee County Fiscal Court - Happy Top Development		
	Restricted Funds	170,000	-0-
004.	Lee County Fiscal Court - Pep, Inc. - Equipment		
	Restricted Funds	3,000	-0-
Leslie County			
001.	City of Hyden - Outdoor Classroom and Trash Receptacles		
	Restricted Funds	10,000	-0-
002.	Hyden-Leslie Water District - Grassy Water Line Extensions		
	Restricted Funds	582,747	-0-
003.	Hyden-Leslie Water District - Upgrade City of Hyden Transmission Mains		
	Restricted Funds	-0-	500,000
004.	Leslie County Fiscal Court - CREEK Center - Building Improvements		
	Restricted Funds	5,000	-0-
005.	Leslie County Fiscal Court - Cutshin Senior Citizens - Operating		
	Restricted Funds	-0-	100,000
006.	Leslie County Fiscal Court - Economic Development Property Acquisition/Property Development		
	Restricted Funds	-0-	427,322
007.	Leslie County Fiscal Court - Jail Renovation/Property Acquisition/ New Facility		
	Restricted Funds	500,000	-0-
008.	Leslie County Fiscal Court - Leslie County Community Development Center - Operating		
	Restricted Funds	90,000	90,000
009.	Leslie County Fiscal Court - Leslie County Drug Awareness - Operating		
	Restricted Funds	25,000	-0-
010.	Leslie County Fiscal Court - Leslie County History Museum - Operating		
	Restricted Funds	20,000	-0-
011.	Leslie County Fiscal Court - Leslie County Jail - Purchase of Two Vehicles		

	Restricted Funds	60,000	-0-
012.	Leslie County Fiscal Court - Leslie County Little League - Improvements		
	Restricted Funds	20,000	-0-
013.	Leslie County Fiscal Court - Leslie County Volunteer Fire Department - Equipment		
	Restricted Funds	60,000	60,000
014.	Leslie County Fiscal Court - Mozelle Senior Citizens - Operating		
	Restricted Funds	25,000	-0-
015.	Leslie County Fiscal Court - Richard Nixon Center - Renovations		
	Restricted Funds	100,000	-0-
016.	Leslie County Fiscal Court - Transportation		
	Restricted Funds	533,103	50,000
017.	Leslie County Parks Board - Improvements, Equipment and Construction		
	Restricted Funds	50,000	-0-

Letcher County

001.	City of Blackey - For Recreation, Operation, Maintenance, and Improvements of City		
	Restricted Funds	20,000	20,000
002.	City of Jenkins - Downtown Revitalization Project Completion		
	Restricted Funds	90,000	-0-
003.	City of Jenkins - Jenkins Education Foundation - Operating and Equipment		
	Restricted Funds	-0-	70,000
004.	City of Whitesburg - Southeast Community College - Construction Allied Health Building		
	Restricted Funds	-0-	150,000
005.	Letcher County Fiscal Court - Campbell's Branch Community Center - Purchase Building from Letcher County Board of Education		
	Restricted Funds	220,000	-0-
006.	Letcher County Fiscal Court - Carcassonne Community Center - Heating, Windows, and Repairs to Building		
	Restricted Funds	20,000	20,000
007.	Letcher County Fiscal Court - Colson Fire Department - Purchase Pumper Truck and Equipment		
	Restricted Funds	100,000	10,000
008.	Letcher County Fiscal Court - Cowan Community Center - Improvements		
	Restricted Funds	30,000	30,000
009.	Letcher County Fiscal Court - Cumberland Mountain Arts and Crafts Council - Little Shepherd Amphitheater Project		
	Restricted Funds	20,000	20,000
010.	Letcher County Fiscal Court - Hemphill Community Center - Purchase Building from Letcher County Board of Education		
	Restricted Funds	120,000	-0-
011.	Letcher County Fiscal Court - Isom Park and Walking Track		
	Restricted Funds	50,000	25,000

012.	Letcher County Fiscal Court - Isom-Jeremiah Area Community Park and Recreation Facility		
	Restricted Funds	20,000	20,000
013.	Letcher County Fiscal Court - Jenkins Park and Baseball Field - Lighting and Improvements		
	Restricted Funds	100,000	-0-
014.	Letcher County Fiscal Court - Jenkins Tourism - Renovation of Old Jenkins High School		
	Restricted Funds	45,000	45,000
015.	Letcher County Fiscal Court - Letcher Area Athletic Complex		
	Restricted Funds	300,000	-0-
016.	Letcher County Fiscal Court - Letcher Co. Industrial Recruiter/Economic Development Coordinator		
	Restricted Funds	90,000	90,000
017.	Letcher County Fiscal Court - Letcher Co. Veterans Museum		
	Restricted Funds	25,000	25,000
018.	Letcher County Fiscal Court - Letcher County Parks and Recreation - Eolia Park		
	Restricted Funds	25,000	-0-
019.	Letcher County Fiscal Court - Letcher County Parks and Recreation - Thornton Park - Improvements		
	Restricted Funds	25,000	-0-
020.	Letcher County Fiscal Court - Letcher County Recreational Park - Whitesburg - Improvements/Infrastructure		
	Restricted Funds	35,000	34,000
021.	Letcher County Fiscal Court - Letcher County Volunteer Fire Departments - 10 Fire Department $20,000 Each		
	Restricted Funds	200,000	-0-
022.	Letcher County Fiscal Court - McRoberts and Jenkins Park - Playground Equipment		
	Restricted Funds	40,000	-0-
023.	Letcher County Fiscal Court - Neon Little League Field - Improvements and Equipment		
	Restricted Funds	25,000	-0-
024.	Letcher County Fiscal Court - Raven Rock Park - Purchase and Improvement		
	Restricted Funds	65,000	65,000
025.	Letcher County School Board - Kingdom Come Elementary - Support for Arts in Quiltmaking		
	Restricted Funds	2,500	2,500
026.	Letcher County Sheriff's Office - Purchase of Vehicles, Technology, Bulletproof Vests, Safety Equipment, and Firearms and Child ID Programs		
	Restricted Funds	60,000	-0-
027.	Letcher County Water and Sewer District - Crofts Colly Water Line Extension (WX21133200)		
	Restricted Funds	-0-	340,000
028.	Letcher County Water and Sewer District - Cumberland River Water Line Extension (WX21133500)		
	Restricted Funds	-0-	300,000

029.	Letcher County Water and Sewer District - Dry Fork Water Project		
	Restricted Funds	275,000	-0-
030.	Letcher County Water and Sewer District - Thorton Water Line Extension (WX21133008)		
	Restricted Funds	-0-	400,000
031.	Southeast Community College - Construction Academic/Technical Building - Whitesburg Campus		
	Restricted Funds	-0-	115,000
Magoffin County			
001.	Magoffin County Fiscal Court - Bloomington Fire Department		
	Restricted Funds	25,000	25,000
002.	Magoffin County Fiscal Court - Lloyd M. Hall Community Center		
	Restricted Funds	139,000	150,000
003.	Magoffin County Fiscal Court - Magoffin County Sheriff's Department - Vehicle and Equipment Purchase		
	Restricted Funds	50,000	-0-
004.	Magoffin County Fiscal Court - Northern Magoffin Fire Department - Purchase Truck		
	Restricted Funds	43,300	-0-
005.	Magoffin County Fiscal Court - Northern Magoffin Fire Department		
	Restricted Funds	25,000	25,000
006.	Magoffin County Fiscal Court - REACH		
	Restricted Funds	15,000	15,000
007.	Magoffin County Fiscal Court - Royalton Fire Department, District 3		
	Restricted Funds	25,000	25,000
008.	Magoffin County Fiscal Court - Salyersville Fire Department		
	Restricted Funds	25,000	25,000
009.	Magoffin County Fiscal Court - TEEN SCENE		
	Restricted Funds	10,000	10,000
010.	Magoffin County Rescue Squad, Inc. - Northern Magoffin Fire Department		
	Restricted Funds	50,000	50,000
Martin County			
001.	Martin County Fiscal Court - Warfield Veterans Memorial Monument - Design/Acquisition/Construction		
	Restricted Funds	10,000	-0-
McCreary County			
001.	McCreary County Fiscal Court - McCreary County Industrial Park Development Local Match to EDA Application		
	Restricted Funds	170,000	-0-
002.	McCreary County Fiscal Court - McCreary County Recreational Park - Land Acquisition/Improvements/Construction		
	Restricted Funds	100,000	-0-
003.	McCreary County Fiscal Court - McCreary County Rescue Squad - Equipment/Operations		
	Restricted Funds	10,000	-0-

004.	McCreary County Fiscal Court - McCreary County Senior Citizens - Land Acquisition		
	Restricted Funds	17,101	-0-
McLean County			
001.	McLean Count Fiscal Court - High Speed Data/IT (E-Government)		
	Restricted Funds	-0-	50,000
002.	McLean County Fiscal Court - Fire Department - Construction		
	Restricted Funds	200,000	-0-
003.	McLean County Fiscal Court - Rumsey Sewer Debit Service/Construction		
	Restricted Funds	75,000	-0-
004.	McLean County Fiscal Court - Water Line Construction - Brooks School Road		
	Restricted Funds	-0-	15,000
005.	McLean County Fiscal Court -Water Tank Interconnect (KY 81/KY 136)		
	Restricted Funds	-0-	95,000
Menifee County			
001.	City of Frenchburg - Big Woods Fire Department - Equipment, Operations, Improvements		
	Restricted Funds	10,000	-0-
002.	City of Frenchburg - City of Frenchburg Fire Department - Equipment, Operations, Improvements		
	Restricted Funds	10,000	-0-
003.	City of Frenchburg - Denniston Fire Department - Equipment, Improvements, Operating		
	Restricted Funds	10,000	-0-
004.	City of Frenchburg - Downtown Revitalization		
	Restricted Funds	40,000	-0-
005.	City of Frenchburg - Means Fire Department - Equipment, Operating, Improvements		
	Restricted Funds	10,000	-0-
006.	City of Frenchburg - Menifee County Rescue and Emergency Squad - Operations, Equipment, Improvements		
	Restricted Funds	10,000	-0-
Morgan County			
001.	City of West Liberty - Helping Hands Animal Shelter - Matching Funds/Startup		
	Restricted Funds	10,000	-0-
002.	City of West Liberty - Old Mill Park and Treadway Memorial Park - Lighting		
	Restricted Funds	10,000	-0-
003.	Morgan County Appalachian Regional Hospital - Diabetes Program - Development/Startup		
	Restricted Funds	100,000	-0-
004.	Morgan County Historical Society - Old W.P.A. Jail Museum - Restoration		
	Restricted Funds	50,000	-0-
005.	Morgan County Water District - Blackwater Fire Department - Equipment/Operating/Improvements		

	Restricted Funds	10,000	-0-
006.	Morgan County Water District - 519 Fire Department - Equipment/Operating/Improvements		
	Restricted Funds	10,000	-0-
007.	Morgan County Water District - 519 Fire Department/Wrigley Fire Department Expansion		
	Restricted Funds	10,000	-0-
008.	Morgan County Water District - Caney Valley Fire Department - Equipment/Operating/Improvements		
	Restricted Funds	10,000	-0-
009.	Morgan County Water District - Crockett Fire Department - Equipment/Operating/Improvements		
	Restricted Funds	10,000	-0-
010.	Morgan County Water District - Morgan County Rescue Squad - Operations/Improvements/Equipment		
	Restricted Funds	10,000	-0-
011.	Morgan County Water District - Peddler Gap Fire Department - Equipment/Operating/Improvements		
	Restricted Funds	10,000	-0-
012.	Morgan County Water District - White Oak Fire Department - Equipment/Operating/Improvements		
	Restricted Funds	10,000	-0-
013.	University of Kentucky Regional Technology Center - Sidewalk and Stairs Construction and Paving		
	Restricted Funds	60,000	-0-

Muhlenberg County

001.	Bremen Water District #3 - Install 8" Water Line along Black Lake Road		
	Restricted Funds	200,000	-0-
002.	City of Central City - Beechmont Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
003.	City of Central City - Bremen Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
004.	City of Central City - Central City Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
005.	City of Central City - Drakesboro Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
006.	City of Central City - Dunmor Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
007.	City of Central City - Graham Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
008.	City of Central City - Greenville Fire Department - Equipment Purchase		
	Restricted Funds	3,125	-0-
009.	City of Central City - Nelson Fire Department - Equipment Purchase		

	Restricted Funds	3,125	-0-
010.	City of Central City - Purchase of New City Building		
	Restricted Funds	150,000	-0-
011.	City of Drakesboro - Install 6" Sewer Line with Lift Station from Drakesboro to Southern Elementary at Browder		
	Restricted Funds	100,000	-0-
012.	City of Greenville or City of Central City - Sewer Lines and Appurtenances for Paradise Regional Industrial Park, Graham Kentucky to Augment any Loan or Grant		
	Restricted Funds	550,000	-0-
013.	City of Greenville Parks Department - Replacement of Two Tennis Courts at Morgan Park		
	Restricted Funds	65,000	-0-
014.	City of Greenville Utilities Commission - Match for Funds to Improve Sewer System		
	Restricted Funds	150,000	-0-
015.	Muhlenberg County Board of Education - Design/Construction Auditorium for New Greenville Elementary School		
	Restricted Funds	500,000	-0-
016.	Muhlenberg County Campus, Madisonville College - Workforce Assessment and Training Project - Operations, Equipment, and Programming		
	Restricted Funds	250,000	-0-
017.	Muhlenberg County Fair Board - Expansion of Muhlenberg Ag Center Building		
	Restricted Funds	80,000	-0-
018.	Muhlenberg County Fiscal Court - Industrial Park Land Purchase on or before June 30, 2005 or Water/Sewer Development at Paradise Industrial Park, Graham, Kentucky		
	Restricted Funds	125,000	-0-
019.	Muhlenberg County Library Board - Central City Library Annex		
	Restricted Funds	350,000	-0-
Ohio County			
001.	Ohio County Fiscal Court - County Sports Complex - Facilities Construction		
	Restricted Funds	50,000	-0-
002.	Ohio County Fiscal Court - Ohio County Courthouse - Renovation		
	Restricted Funds	501,000	-0-
003.	Ohio County Fiscal Court - Rockport Water Project - Renovation of Obsolete Plant		
	Restricted Funds	232,000	-0-
004.	Ohio County Fiscal Court - Veterans Museum - Upgrades		
	Restricted Funds	25,000	-0-
Owsley County			
001.	Owsley County Fiscal Court - Fire Departments Communication System		
	Restricted Funds	13,000	-0-
002.	Owsley County Fiscal Court - Island City Fire Department - Water Tank		
	Restricted Funds	3,500	-0-

003.	Owsley County Fiscal Court - Purchase Road Equipment		
	Restricted Funds	171,721	-0-
004.	Owsley County Fiscal Court - Regional Jail - Operations/Equipment		
	Restricted Funds	-0-	106,000
005.	Owsley County Fiscal Court - Spec Building - Maintenance		
	Restricted Funds	-0-	53,524

Perry County

001.	City of Hazard - Operations/Equipment Purchase		
	Restricted Funds	200,000	-0-
002.	Perry County Fiscal Court - 911 Mapping Upgrade		
	Restricted Funds	50,000	50,000
003.	Perry County Fiscal Court - ACUP/Millseed Water Extension		
	Restricted Funds	-0-	120,000
004.	Perry County Fiscal Court - ARH Indigent Care Account		
	Restricted Funds	100,000	100,000
005.	Perry County Fiscal Court - City of Hazard - Airport Extension		
	Restricted Funds	100,000	100,000
006.	Perry County Fiscal Court - Civil War Reenactment Tourism Fund		
	Restricted Funds	10,000	10,000
007.	Perry County Fiscal Court - Hiner/Bulan Mountain Water Line Replacement		
	Restricted Funds	-0-	300,000
008.	Perry County Fiscal Court - Joshua's Dream Drug Rehab - Operating		
	Restricted Funds	150,000	-0-
009.	Perry County Fiscal Court - Park Maintenance and Improvement Fund		
	Restricted Funds	50,000	28,000
010.	Perry County Fiscal Court - Perry County Sheriff Matching Fund for United		
	Restricted Funds	200,000	-0-
011.	Perry County Fiscal Court - Senior Citizens Sustenance Fund		
	Restricted Funds	20,000	20,000
012.	Perry County Fiscal Court - Tourism Coordinator Salary, Vehicle and Office Expenses		
	Restricted Funds	100,000	70,000
013.	Perry County Fiscal Court - University Center of the Mountains - Operating		
	Restricted Funds	500,000	500,000

Pike County

001.	Mountain Water District - Belfry/Pond Sewer Project		
	Restricted Funds	78,200	-0-
002.	Mountain Water District - Miscellaneous Water and Sewer Projects		
	Restricted Funds	1,100,000	-0-
003.	Mountain Water District - Sewer Projects		

	Restricted Funds	791,000	-0-
004.	Mountain Water District - Water Projects		
	Restricted Funds	1,250,000	1,250,000
005.	Pike County Board of Education - FRYSC's - Operating		
	Restricted Funds	100,000	-0-
006.	Pike County Fiscal Court - Black Gem Park - Equipment, Operating and Improvements		
	Restricted Funds	100,000	-0-
007.	Pike County Fiscal Court - Blackberry Senior Citizens Program - Construction, Operating and Improvements		
	Restricted Funds	50,000	-0-
008.	Pike County Fiscal Court - Breaks Park - Equipment, Operating and Improvements		
	Restricted Funds	50,000	-0-
009.	Pike County Fiscal Court - Dorton Park - Equipment, Operating and Improvements		
	Restricted Funds	75,000	25,000
010.	Pike County Fiscal Court - Drug Rehab Center - Equipment, Operating and Improvements		
	Restricted Funds	300,000	300,000
011.	Pike County Fiscal Court - Elkhorn City Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	50,000	-0-
012.	Pike County Fiscal Court - Elkhorn City Heritage Council - Equipment, Operating and Improvements		
	Restricted Funds	-0-	10,000
013.	Pike County Fiscal Court - Elkhorn City Railroad Musuem - Equipment, Operating and Improvements		
	Restricted Funds	5,000	-0-
014.	Pike County Fiscal Court - Elkhorn City Renaissance Program - Equipment, Operating and Improvements		
	Restricted Funds	20,000	-0-
015.	Pike County Fiscal Court - Feds Creek Park - Equipment, Operating and Improvements		
	Restricted Funds	25,000	-0-
016.	Pike County Fiscal Court - Fishtrap Park - Equipment, Operating and Improvements		
	Restricted Funds	1,000,000	-0-
017.	Pike County Fiscal Court - Freeburn Park - Equipment, Operating and Improvements		
	Restricted Funds	25,000	-0-
018.	Pike County Fiscal Court - Grants Branch Park - Equipment, Operating and Improvements		
	Restricted Funds	50,000	-0-
019.	Pike County Fiscal Court - Grapevine Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	50,000	-0-
020.	Pike County Fiscal Court - Hardy Park - Equipment, Operating and Improvements		
	Restricted Funds	100,000	-0-
021.	Pike County Fiscal Court - Hatfield McCoy Trail Development Fund - Tourism Development		

	Restricted Funds	50,000	50,000
022.	Pike County Fiscal Court - HOPE, Inc. (Three Centers) - Equipment, Operating and Improvements		
	Restricted Funds	300,000	300,000
023.	Pike County Fiscal Court - Island Creek Park - Equipment, Operating and Improvements		
	Restricted Funds	25,000	-0-
024.	Pike County Fiscal Court - Kentucky HOPE - Equipment, Operating and Improvements		
	Restricted Funds	100,000	100,000
025.	Pike County Fiscal Court - Long Fork Park - Equipment, Operating and Improvements		
	Restricted Funds	25,000	-0-
026.	Pike County Fiscal Court - Lower Johns Creek Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	50,000	-0-
027.	Pike County Fiscal Court - Majestic Park - Equipment, Operating and Improvements		
	Restricted Funds	25,000	-0-
028.	Pike County Fiscal Court - Oven Fork Park - Equipment, Operating and Improvements		
	Restricted Funds	50,000	-0-
029.	Pike County Fiscal Court - Phelps DAV/VFW - Operations		
	Restricted Funds	50,000	-0-
030.	Pike County Fiscal Court - Phelps Fire Department - Equipment		
	Restricted Funds	150,000	-0-
031.	Pike County Fiscal Court - Pike County Ambulance Service - Equipment, Operating and Improvements		
	Restricted Funds	10,000	10,000
032.	Pike County Fiscal Court - Pike County DAV/VFW - Operating and Improvements		
	Restricted Funds	50,000	50,000
033.	Pike County Fiscal Court - Pike County Fire Departments - Equipment, Operating and Improvements		
	Restricted Funds	100,000	100,000
034.	Pike County Fiscal Court - Pike County Housing Authority - Construction, Land Acquisition, Equipment, Operating and Improvements		
	Restricted Funds	100,000	100,000
035.	Pike County Fiscal Court - Pike County Jail - Equipment, Operating and Improvements		
	Restricted Funds	75,000	-0-
036.	Pike County Fiscal Court - Pikeville Little League Baseball Field - Improvements		
	Restricted Funds	25,000	-0-
037.	Pike County Fiscal Court - Pinson Farm Park Project - Coon Creek - Equipment, Operating and Improvements		
	Restricted Funds	25,000	-0-
038.	Pike County Fiscal Court - Senior Citizens Program - Equipment, Operating and Improvements		
	Restricted Funds	100,000	-0-

039.	Pike County Fiscal Court - Sycamore Park - Equipment, Operating and Improvements		
	Restricted Funds	50,000	50,000
040.	Pike County Fiscal Court - Sycamore Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	-0-	50,000
041.	Pike County Fiscal Court - Turkey Creek Volunteer Fire Department - Equipment, Operating and Improvements		
	Restricted Funds	10,000	-0-
042.	Pike County School Board - Phelps High School - Phelps History Center - Equipment, Operating and Improvements		
	Restricted Funds	25,000	25,000
Union County			
001.	City of Morganfield - Morganfield Fire Department - Equipment		
	Restricted Funds	5,000	-0-
002.	City of Sturgis - Downtown Sturgis Atrium and Amphitheatre - Completion of Construction and Operations		
	Restricted Funds	150,000	-0-
003.	City of Sturgis - Elkwood Public Golf Course - Restrooms and Pro Shop		
	Restricted Funds	25,000	-0-
004.	City of Sturgis - Purchase and Renovation Old Sturgis H.S. Hotel and Museum		
	Restricted Funds	200,000	-0-
005.	City of Sturgis - Sturgis Community Rest Home		
	Restricted Funds	75,000	-0-
006.	City of Sturgis - Sturgis Fire Department - Equipment		
	Restricted Funds	5,000	-0-
007.	City of Uniontown - Improvements at Kentucky Recreational & Ballpark Complex		
	Restricted Funds	14,000	-0-
008.	Union County Fair Grounds Boards - Chain Link Fence		
	Restricted Funds	10,000	-0-
009.	Union County Fiscal County - Sewer System for Wyn Addition		
	Restricted Funds	750,000	-0-
010.	Union County Fiscal Court - Completion Union County Senior Citizens Building		
	Restricted Funds	235,000	-0-
011.	Union County Fiscal Court - Henshaw Fire Department - Adminstration/Equipment		
	Restricted Funds	5,000	-0-
012.	Union County Fiscal Court - Jimmy Veach Historical Center Facility Housing for Antique Farm Equipment		
	Restricted Funds	75,000	-0-
013.	Union County Fiscal Court - Sullivan Fire Department - Administration/Equipment		
	Restricted Funds	5,000	-0-
014.	Union County Fiscal Court - Union County Jail - Improvements and Maintenances		
	Restricted Funds	246,734	-0-

015.	Union County Fiscal Court - Union County Library - Improvements and Operations		
	Restricted Funds	200,000	-0-
016.	Union County Fiscal Court - Union County YMCA - Restrooms, Heating and Cooling System		
	Restricted Funds	16,000	-0-
017.	Union County Fiscal Court - Uniontown Fire Department - Administration/Equipment		
	Restricted Funds	5,000	-0-
018.	Union County Fiscal Court - Waverly Fire Department - Administration/Equipment		
	Restricted Funds	5,000	-0-
019.	Union County Fiscal Court - Whispering Meadows Fire Department - Administration/Equipment		
	Restricted Funds	5,000	-0-

Webster County

001.	City of Blackford - Completion of Blackford Bridge Project		
	Restricted Funds	100,000	-0-
002.	City of Poole - Poole Fire Barn - Improvements		
	Restricted Funds	150,000	-0-
003.	City of Providence - Sewer Project		
	Restricted Funds	250,000	-0-
004.	City of Providence - Stabilization of Wall at Providence Fire Department		
	Restricted Funds	50,000	-0-
005.	City of Sebree - South Sebree Industrial Park Preparation for Business		
	Restricted Funds	200,000	-0-
006.	Webster County Fiscal Court - Warning Sirens Updated and Seven New Ones for County		
	Restricted Funds	175,000	-0-
007.	Webster County Fiscal Court - Wireless Internet Service for County Plus T1 Service		
	Restricted Funds	400,000	-0-

Whitley County

001.	Whitley County Fiscal Court - Whitley County Senior Citizens - Purchase of Food Service Equipment & Storage Building		
	Restricted Funds	20,000	-0-
002.	Whitley County Fiscal Court - Lease Purchase of New Police Cars for Whitley County Sheriff's Office		
	Restricted Funds	64,000	-0-
003.	Whitley County Fiscal Court - Purchase of Radios, ECG Monitor, Stair Chairs and Pediatric Devices for Whitley County EMS		
	Restricted Funds	22,000	-0-
004.	Whitley County Fiscal Court - Purchase of Six New Computers, Software and Related Equipment for County Judge's Office		
	Restricted Funds	13,000	-0-
005.	Whitley County Fiscal Court - Purchase of Two Trucks, Tractor and Other Equipment for Whitley County Road Department		
	Restricted Funds	50,000	-0-
006.	Whitley County Fiscal Court - Relocation of Primary Broadcast Tower Expenses and Related Equipment for Whitley County 911		

	Restricted Funds	80,000	-0-
Wolfe County			
001.	Wolfe County Board of Education - Red River School Septic System		
	Restricted Funds	50,000	-0-
002.	Wolfe County Fiscal Court - Campton Fire Department - Equipment, Improvements, Operating		
	Restricted Funds	30,000	-0-
003.	Wolfe County Fiscal Court - Hazel Green Fire Department - Equipment, Improvements, Operating		
	Restricted Funds	15,000	-0-
004.	Wolfe County Fiscal Court - Hazel Green Fire Department - Paving		
	Restricted Funds	15,000	-0-
005.	Wolfe County Fiscal Court - Helping Hands Animal Shelter - Matching Grant Funds/Startup		
	Restricted Funds	10,000	-0-
006.	Wolfe County Fiscal Court - Pryor Fork Road Wooden Bridge - Match on Repairs		
	Restricted Funds	10,000	-0-
007.	Wolfe County Fiscal Court - Wolfe County Rescue Squad - Equipment, Improvements, Operating		
	Restricted Funds	10,000	-0-

M. WATER AND SEWER RESOURCES DEVELOPMENT FUND FOR COAL PRODUCING COUNTIES

(1) Bond Authority: Bond Funds in the amount of $50,000,000 are authorized for projects within the Water and Sewer Resources Development Fund for Coal Producing Counties. The Bond Pool authorization identified in Part II, A. General Government, 2. Kentucky Infrastructure Authority, Item 003., of this Act, and the Projects list as identified in this section shall be placed under the jurisdiction of the Kentucky Infrastructure Authority (KIA). There is $4,767,000 in fiscal year 2005-2006 appropriated from Restricted Funds for debt service. From the effective date of this Act, interest earnings and/or investment income earned on bond proceeds shall be retained by the Water and Sewer Resources Development Fund for Coal Producing Counties. Any interest earnings and/or investment income shall be made available for approved projects. The Executive Director of KIA, the Secretary of the Finance and Administration Cabinet, and Bond Counsel shall determine the most permissive cost-advantageous method for issuing the bonds, including using an existing bond indenture, creating a new bond indenture, and utilizing the State Property and Buildings Commission or the Kentucky Asset/Liability Commission for the issuance of the bonds.

(2) Appropriations Not To Be Duplicated: Appropriations identified as Bond Funds in this section are representative of the amounts provided in Part II, A. General Government, 2. Kentucky Infrastructure Authority (KIA), Item 003., of this Act, and are not to be appropriated in duplication.

1. GENERAL GOVERNMENT

	Budget Unit	**2003-04**	**2004-05**
a.	**Local Government**		
Bell County			
001.	Bell County Fiscal Court - Assorted Water Projects - Capps Hill/Little Creek/Neal Hill/Stephens Branch/Mill Creek/Laurel Fork/Wolfpen		
	Bond Funds	350,000	-0-
002.	Bell County Fiscal Court - Beans Fork Water		
	Bond Funds	250,000	-0-
003.	Bell County Fiscal Court - Dorton Branch Sewer Project		
	Bond Funds	300,000	-0-
004.	Bell County Fiscal Court - Ferndale Sewer		
	Bond Funds	250,000	-0-

005.	Bell County Fiscal Court - Fire and Dry Hydrants		
	Bond Funds	88,888	-0-
006.	Bell County Fiscal Court - Polly Hollow (Left Fork) Sewer Project		
	Bond Funds	150,000	-0-
Boyd County			
001.	Boyd County Fiscal Court - Various Sewer Line Extensions		
	Bond Funds	246,888	-0-
002.	Boyd County Sanitation District No. 2 - Various Sewer Line Extensions and Upgrades		
	Bond Funds	200,000	-0-
003.	Boyd County Sanitation District No. 4 - Various Sewer Line Extensions and Rehabilitations - Countryside Drive Sewer Line Rehabilitation		
	Bond Funds	50,000	-0-
004.	Boyd County Sanitation District No. 4 - Various Sewer Line Extensions and Rehabilitations - Gillum Addition / Dorcliff Heights Sewer Line Extensions		
	Bond Funds	227,000	-0-
005.	Cannonsburg Water District - Various Water Line Extensions, Line Replacement, New Water Tank and Fire Hydrant Rehabilitaiton and Replacement - Industrial Parkway Line Extension		
	Bond Funds	270,000	-0-
006.	Cannonsburg Water District - Various Water Line Extensions, Line Replacement, New Water Tank and Fire Hydrant Rehabilitation and Replacement - New Water Tank Briarwood		
	Bond Funds	60,000	-0-
007.	Cannonsburg Water District - Various Water Line Extensions, Line Replacement, New Water Tank, and Fire Hydrant Rehabilitation and Replacement - Fire Hydrant Fix and Replace		
	Bond Funds	75,000	-0-
008.	Cannonsburg Water District - Various Water Line Extensions, Line Replacement, New Water Tank, and Fire Hydrant Rehabilitation and Replacement - Tarpin Ridge Line Replacement		
	Bond Funds	60,000	-0-
009.	City of Ashland Utilities - Melody Mountain Sewer Line Extensions		
	Bond Funds	200,000	-0-
Breathitt County			
001.	Breathitt County Fiscal Court - Water Line Extension Lee/Breathitt County Line to Little Cave Creek Baptist Church on Hwy 52 and Hwy 541 at Oakdale School to Kentucky Mountain Bible College		
	Bond Funds	1,388,888	-0-
Butler County			
001.	Butler County Water System, Inc. - Water System Expansions		
	Bond Funds	1,388,888	-0-
Christian County			
001.	Christian County Fiscal Court - Water Line Expansion Funds		
	Bond Funds	548,888	-0-
002.	Christian County Fiscal Court - Water Line Improvement		

	(WX21047006)		
	Bond Funds	650,000	-0-
003.	Hopkinsville Water Environment Authority - Water Line Replacement (WX21047005)		
	Bond Funds	190,000	-0-
Clay County			
001.	Clay County Fiscal Court - Water and Sewer Projects		
	Bond Funds	1,388,888	-0-
Daviess County			
001.	City of Whitesville - Wastewater Treatment Upgrades		
	Bond Funds	240,000	-0-
002.	East Daviess County Water Association - System Upgrade Project		
	Bond Funds	225,000	-0-
003.	Owensboro Municipal Utilities (OMU) - Replace Undersized and Aging Water Mains		
	Bond Funds	250,000	-0-
004.	Regional Water Resource Agency (RWRA) - Subdivision Sewer Extensions		
	Bond Funds	243,888	-0-
005.	Southeast Daviess County Water District - Brownwood Manor/Fields Road - Water Line Extensions		
	Bond Funds	215,000	-0-
006.	West Daviess County Water District - Ky 56/Audubon Parkway X-ing/Lee Rudy Road/Old Lyddane Bridge Road - Water Line Extensions		
	Bond Funds	215,000	-0-
Elliott County			
001.	Elliott County Fiscal Court - Rowan County Water District - Water Line Extension Carter School Road		
	Bond Funds	15,000	-0-
002.	Sandy Hook Sewer District - Various Line Extensions, Line Improvements, and Repairs - Sewer Plant Improvements and Overall Sewer System Upgrades		
	Bond Funds	479,444	-0-
003.	Sandy Hook Water District - Various Water Line Extensions, Water Plant Improvements, Wells Creek Pump Station, Scada System Upgrade and Rehabilitate Wells 1,2,3 and 4		
	Bond Funds	894,444	-0-
Floyd County			
001.	Floyd County Fiscal Court - Floyd County Water Line Branch Extension		
	Bond Funds	750,000	-0-
002.	Floyd County Fiscal Court - KY 321 Water Line Reinforcement		
	Bond Funds	550,000	-0-
003.	Floyd County Fiscal Court - Prestonsburg Water Line Extensions		
	Bond Funds	88,888	-0-
Greenup County			
001.	City of Flatwoods - Sanitary Sewer Rehabilitation Project Phase I		

	Bond Funds	100,000	-0-
002.	City of Flatwoods - Water System Upgrades and Rehabilitation Phase II		
	Bond Funds	100,000	-0-
003.	City of Greenup - Fire Hydrants on Rural Water Line		
	Bond Funds	30,000	-0-
004.	City of Greenup - Phase VIII Water Line Expansion		
	Bond Funds	275,000	-0-
005.	City of Greenup - Storm Sewer Improvements		
	Bond Funds	80,000	-0-
006.	City of Raceland - Sanitary Sewer Rehabilitation Project Phase III		
	Bond Funds	80,000	-0-
007.	City of Russell - Sanitary Storm Sewer Rehabilitation Project		
	Bond Funds	80,000	-0-
008.	City of South Shore - Sanitary/Storm Sewer Separation Project		
	Bond Funds	80,000	-0-
009.	City of South Shore - Sewer Treatment Plant Equipment Upgrade		
	Bond Funds	45,000	-0-
010.	City of Worthington - Sanitary Sewer Rehabilitation Project		
	Bond Funds	80,000	-0-
011.	City of Wurtland - Lloyd Sewer Expansion Project		
	Bond Funds	78,000	-0-
012.	City of Wurtland - Sanitary Sewer Rehabilitation Project		
	Bond Funds	80,000	-0-
013.	Greenup County Fiscal Court - Water and Sewer Lines and Ground Preparation for Amphitheatre at Greenbo Lake State Resort Park		
	Bond Funds	60,000	-0-
014.	Greenup County Fiscal Court - Water Line Extension Sand Gap Church Road to Route 207		
	Bond Funds	220,888	-0-

Harlan County

001.	Harlan County Fiscal Court - City of Benham - Water Tank Repair/Replacement		
	Bond Funds	100,000	-0-
002.	Harlan County Fiscal Court - City of Cumberland - Water Extension to Blair and Cloverlick and Gilley Hollow		
	Bond Funds	200,000	-0-
003.	Harlan County Fiscal Court - City of Evarts - Water Expansion		
	Bond Funds	50,000	-0-
004.	Harlan County Fiscal Court - Totz Area Water Line Extension		
	Bond Funds	250,000	-0-
005.	Harlan County Fiscal Court - Water Line Extension - Ages/Molus/Laymon		
	Bond Funds	788,888	-0-

Henderson County		
001. Henderson County Water District - Barren Church Road Extension (WX21101018)		
Bond Funds	75,000	-0-
002. Henderson County Water District - Cairo Dixie Road Extension (WX21101035)		
Bond Funds	325,000	-0-
003. Henderson County Water District - Diamond Island Road Extension (WX1101042)		
Bond Funds	110,000	-0-
004. Henderson County Water District - Highway 811 Extension (WX21101034)		
Bond Funds	278,888	-0-
005. Henderson County Water District - Hwy. 283 O Royster Rd.& S. Royster (WX1101037)		
Bond Funds	100,000	-0-
006. Henderson County Water District - McDonald Landing Water Extension (WX21101032)		
Bond Funds	175,000	-0-
007. Henderson County Water District -Tscharner Road/Green River Rd. #1 (WX21101038)		
Bond Funds	150,000	-0-
008. Henderson County Water District -US 60 East Expansion (WX2101033)		
Bond Funds	175,000	-0-
Hopkins County		
001. City of Dawson Springs - Sewer Project		
Bond Fund	438,888	-0-
002. City of Hanson - Sewer Project		
Bond Funds	570,000	-0-
003. City of Mortons Gap - Sewer Project		
Bond Funds	80,000	-0-
004. City of St. Charles - Sewer Project		
Bond Funds	300,000	-0-
Jackson County		
001. Jackson County Fiscal Court - Sewer Lines - Congleton Hollow - Birch Lick Area - Route 421 Northern Jackson County S-Tree Estates Sewer		
Bond Funds	825,000	-0-
002. Jackson County Fiscal Court - Water Lines - Kentucky 577 - Swindling Gap		
Bond Funds	75,000	-0-
003. Jackson County Fiscal Court - Water Lines- Lower Indian Creek - Route #89		
Bond Funds	488,888	-0-
Johnson County		
001. Paintsville Utility Commission - Johnson County Water Lines (WX21115002)		
Bond Funds	388,888	-0-
002. Paintsville Utility Commission - Paintsville Water Plant (WX21115001)		
Bond Funds	1,000,000	-0-

Knott County			
001.	City of Hindman - Water Line Improvements		
	Bond Funds	88,888	-0-
002.	Knott County Water and Sewer District - Ball Creek Water Project		
	Bond Funds	1,300,000	-0-
Knox County			
001.	Barbourville Utility Commission - Water and Sewer Expansions		
	Bond Funds	738,888	-0-
002.	Knox County Fiscal Court - Water Line Extensions		
	Bond Funds	650,000	-0-
Laurel County			
001.	Laurel County Fiscal Court - Sewer Lines - Sallie Branch, Court Road, Miller Lane		
	Bond Funds	400,000	-0-
002.	Laurel County Fiscal Court - Sewer Lines - Sasser School Road - London East Sewer		
	Bond Funds	388,888	-0-
003.	Laurel County Fiscal Court - Sewer Lines - Sublimity		
	Bond Funds	600,000	-0-
Lawrence County			
001.	City of Louisa Sewer Department - Various Line Extensions, Line Replacement and Upgrades and Lift Station - Clay St. Sewer Line Replacement System		
	Bond Funds	250,000	-0-
002.	City of Louisa Sewer Department - Various Line Extensions, Line Replacement and Upgrades and Lift Station - Shillow Drive Sewer Line Extension		
	Bond Funds	100,000	-0-
003.	City of Louisa Sewer Department - Various Line Extensions, Line Replacement and Upgrades and Lift Station - Willow Drive Sewer Line Extension		
	Bond Funds	100,000	-0-
004.	City of Louisa Sewer Department - Various Line Extensions, Line Replacement, and Upgrades and Lift Station - Bob White Drive Sewer Line Extension		
	Bond Funds	100,000	-0-
005.	City of Louisa Sewer Department - Various Line Extensions, Line Replacement, and Upgrades and Lift Station - High Bottom Lift Station		
	Bond Funds	150,000	-0-
006.	City of Louisa Sewer Department - Various Line Extensions, Line Replacements, and Upgrades and Lift Station - Facility Plan Sewer Evaluation Study		
	Bond Funds	188,888	-0-
007.	Lawrence County Fiscal Court - Paintsville Water - Caines Creek Water Line Extensions		
	Bond Funds	500,000	-0-
Lee County			
001.	Lee County Fiscal Court - Sewer Line Extensions		
	Bond Funds	1,388,888	-0-

Leslie County

001.	Hyden-Leslie Water District - Plant Expansion		
	Bond Funds	900,000	-0-
002.	Hyden-Leslie Water District - Water Line Extension - Saylor Community		
	Bond Funds	250,000	-0-
003.	Hyden-Leslie Water District - Water Line Extension Contingency Fund		
	Bond Funds	238,888	-0-

Letcher County

001.	City of Jenkins - Water and Sewer to Industrial Site		
	Bond Funds	44,444	-0-
002.	City of Whitesburg - New Wastewater Plant Project		
	Bond Funds	1,000,000	-0-
003.	Letcher County Water and Sewer District - Blackey Sanitation Sewer Project		
	Bond Funds	344,444	-0-

Magoffin County

001.	City of Salyerville Water and Sewer Expansion Project		
	Bond Funds	788,888	-0-
002.	Magoffin County Water District - Water Lines		
	Bond Funds	600,000	-0-

Martin County

001.	BSADD on Behalf of the TUG Valley Sewer Authority - Warfield Sewer System (SZ21159501)		
	Bond Funds	1,000,000	-0-
002.	Inez Sewer System - Sewer Improvements (SX21159010)		
	Bond Funds	388,888	-0-

McCreary County

001.	McCreary County Water District - Big Creek Water Project Phase #1		
	Bond Funds	250,000	-0-
002.	McCreary County Water District - Telemetry, Security and Water System Upgrade		
	Bond Funds	84,888	-0-
003.	McCreary County Water District - Williamsburg Street Wastewater Project		
	Bond Funds	1,054,000	-0-

McLean County

001.	McLean County Fiscal Court - City of Calhoun Sewer Extension KY 81		
	Bond Funds	80,000	-0-
002.	McLean County Fiscal Court - City of Calhoun Water Line Construction		
	Bond Funds	175,000	-0-
003.	McLean County Fiscal Court - City of Island (Water) Pump Station		
	Bond Funds	50,000	-0-
004.	McLean County Fiscal Court - City of Island Sewer Line Extension		
	Bond Funds	110,000	-0-

005.	McLean County Fiscal Court - City of Livermore Sewer Line Construction		
	Bond Funds	205,000	-0-
006.	McLean County Fiscal Court - City of Sacramento Sewer Pumps Replacement		
	Bond Funds	170,000	-0-
007.	McLean County Fiscal Court - City of Sacramento Water Line Extension		
	Bond Funds	10,000	-0-
008.	McLean County Fiscal Court - KY 136 Sewer Debit Service/Construction		
	Bond Funds	65,000	-0-
009.	McLean County Fiscal Court - Rumsey Sewer Debt Service/Construction		
	Bond Funds	110,000	-0-
010.	McLean County Fiscal Court - Water Line Construction - Beechgrove		
	Bond Funds	205,000	-0-
011.	McLean County Fiscal Court - Water Line Construction - Troutman Hills		
	Bond Funds	20,000	-0-
012.	McLean County Fiscal Court - Water Line Construction KY 138 W		
	Bond Funds	88,888	-0-
013.	McLean County Fiscal Court - Water Tank Interconnect (KY 81/KY 136)		
	Bond Funds	100,000	-0-
Menifee County			
001.	City of Frenchburg - Water Infrastructure Project - Water Line Extensions Rothwell Hill on US 460, Indian Creek Road and Amos Ridge; Emergency Inter-connections; Water Line Extensions to Currently Unserved Areas of the County		
	Bond Funds	1,388,888	-0-
Morgan County			
001.	City of West Liberty - Wastewater Project - Belt Filter Press System to Alleviate Accumulated Solids		
	Bond Funds	388,888	-0-
002.	Morgan County Water District - Water Projects		
	Bond Funds	1,000,000	-0-
Muhlenberg County			
001.	City of Drakesboro for Drakesboro Board of Education - Sewer Line to Southern Elementary		
	Bond Funds	88,888	-0-
002.	City of Greenville or City of Central City (Which ever Awarded Project) - Matching Grant for Current Water Expansions and for Water and/or Sewer for Regional Industrial Park, Graham, KY		
	Bond Funds	250,000	-0-
003.	City of Powderly - Purchase Sewer Equipment		
	Bond Funds	50,000	-0-
004.	Muhlenberg County Water District - Grant Match for Current Water Expansions and for Water and/or Sewer for Regional Industrial Park, Graham KY (Any Funds not used to Lapse to City Handling		

	Wastewater for Paradise Industrial Park, Graham, KY		
	Bond Funds	1,000,000	-0-
Ohio County			
001.	Ohio County Water - Regional Wastewater conveyance and Treatment System		
	Bond Funds	1,388,888	-0-
Owsley County			
001.	Owsley County Fiscal Court - Water Line Route 30, Green Hall, Buffalo, 175 Household, Stay, Winkle Road, Chadwell Road (No. 847), White Oak, Highway 11-Sexton Cr., Anglin, Allen Road, Doe Creek Road, Road No. 1071-Big Spr. Road		
	Bond Funds	1,388,888	-0-
Perry County			
001.	Perry County Fiscal Court - Ary Water Project - Phase II to County Line		
	Bond Funds	450,000	-0-
002.	Perry County Fiscal Court - South Perry Water Project Phase II		
	Bond Funds	838,888	-0-
003.	Perry County Fiscal Court - Squabble Creek / Middle Fork Water Project		
	Bond Funds	100,000	-0-
Pike County			
001.	Mountain Water District - Forest Hills Sewer Projects		
	Bond Funds	317,000	-0-
002.	Mountain Water District - Pond/Belfry Sewer Project		
	Bond Funds	871,888	-0-
003.	Moutain Water District - Barrenshee Sewer Project		
	Bond Funds	200,000	-0-
Union County			
001.	City of Morganfield - Water Line Extensions		
	Bond Funds	388,888	-0-
002.	Union County Fiscal Court - Sewer Line		
	Bond Funds	1,000,000	-0-
Webster County			
001.	City of Clay - Sewer and Water Upgrades		
	Bond Funds	200,000	-0-
002.	City of Dixon - Sewer Expansion to Pioneer Plastics		
	Bond Funds	250,000	-0-
003.	City of Providence - Baptist Hill Sewer Expansion		
	Bond Funds	388,888	-0-
004.	City of Providence - Water and Sewer Upgrades		
	Bond Funds	200,000	-0-
005.	Webster County Water District - City of Sebree Connect		
	Bond Funds	200,000	-0-
006.	Webster County Water District - Water Line Expansion		
	Bond Funds	150,000	-0-
Whitley County			
001.	Corbin Utilties Commission - Line Extension along Unserved Portion of Bacon Creek Rd. by the Corbin Utilities Commission		

	Bond Funds	100,000	-0-
002.	Whitley County Fiscal Court - Line Extension along Lower Laurel Fork Rd. in Frakes Ky by Laurel Fork Water Corporation		
	Bond Funds	250,000	-0-
003.	Whitley County Fiscal Court - Line Extension by Knox Utilities Commission to Unserved Pockets within Whitley County		
	Bond Funds	100,000	-0-
004.	Whitley County Water District - Establish 8" Interconnection along Hwy 26 and Tyes Ferry Road to Hwy 779		
	Bond Funds	559,888	-0-
005.	Whitley County Water District - Line Extension along Bear Hollow Rd.		
	Bond Funds	36,000	-0-
006.	Whitley County Water District - Line Extension along Hackler Cemetery		
	Bond Funds	31,000	-0-
007.	Whitley County Water District - Line Extension along Keswick Rd. to Foot of King Gap		
	Bond Funds	169,000	-0-
008.	Whitley County Water District - Line Extension along New Zion Church Rd. to Serve Walters Cemetery Rd.		
	Bond Funds	50,000	-0-
009.	Whitley County Water District - Line Extension along Old Mt. Ash Pike		
	Bond Funds	93,000	-0-

PART III

GENERAL PROVISIONS

1. **Funds Designations and Sources:** Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. **Expenditure of Excess Restricted Funds or Federal Funds Receipts:** If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2004-2005 or fiscal year 2005-2006, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State

Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2004-2005 or fiscal year 2005-2006, respectively, then the appropriation increase may be approved. In the event that the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted Funds or Federal Funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2004-2006 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) On or before the beginning of each fiscal year; (2) On or before October 1; (3) On or before January 1; and (4) On or before April 1.

3. **Appropriations Expenditure Purpose and Transfer Restrictions:** Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. **Permitted Appropriation Obligations:** No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. **Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds:** Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

6. **Federally Funded Agencies:** A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. **Lapse of Excess General Fund or Road Fund Debt Service Appropriations:** Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. **Interim Appropriation Increases:** No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. **Revision of Appropriation Allotments:** Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. **Continuing Appropriations:** All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act, except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. **Construction of Budget Provisions on Prior Fiscal Year Appropriations and Statutory Budget Administration Powers and Duties:** Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2004, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. **Interpretation of Appropriations:** All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and

Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. **Enacted Budget of the Commonwealth:** The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2004 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended Legislative Budget, State/Executive Budget and Judicial Budget as enacted by the 2004 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for fiscal year 2003-2004 and the 2004-2006 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2004 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. **State Financial Condition:** Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. **Prorating Administrative Costs:** The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. **Construction of Budget Provisions Regarding Executive Reorganization Orders:** Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2003 Regular Session of the General Assembly or another Act of the 2004 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2003 Regular Session to sine die adjournment of the 2004 Regular Session was not confirmed by the 2004 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2003-2004 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2004 Regular Session of the General Assembly.

17. **Employer Retirement Contribution Rate:** Notwithstanding KRS 61.565, the employer contribution rate for any entity participating in the Kentucky Employees Retirement System shall be as follows: from July 1, 2004, through June 30, 2005, the contribution rates shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System. From July 1, 2005, through June 30, 2006, the employer contribution rate shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

18. **Budget Planning Report:** By August 15, 2005, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

19. **Tax Expenditure Revenue Loss Estimates:** By October 15, 2005, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

20. **Duplicate Appropriations:** Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in another Act of the 2004 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

21. **Priority of Individual Appropriations:** KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

22. **Severability of Budget Provisions:** Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

23. Unclaimed Lottery Prize Money: For fiscal year 2004-2005 and fiscal year 2005-2006, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Student Financial Aid and Advancement Trust Fund to be held as a subsidiary account for the purpose of funding the Kentucky Excellence in Education Scholarship (KEES) Program as appropriated in this Act. Upon the effective date of this Act, the balance of funds in the KEES Program Reserve Account as established by 2003 Ky. Acts ch. 156, Part III, section 24., shall be transferred to the KEES Reserve subsidiary account of the Student Financial Aid and Advancement Trust Fund. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the Subsidiary Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

24. Technology Trust Fund: The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities previously identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

25. General Fund and Road Fund Budget Reduction Plans and Orders: The General Assembly acknowledges that during fiscal year 2003-2004 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2002 General Assembly had enacted the legislative branch budget bill in 2002 Ky. Acts ch. 172 and the 2003 General Assembly had enacted the executive and judicial branch budget bills in 2003 Ky. Acts chs. 156 and 14 as contained in the Appendices to KRS Chapter 47 based upon the anticipated revenue estimates.

The 2003 General Assembly enacted the 2002-2004 biennium General Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156 Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, and except as otherwise modified by this Act, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 04-01.

The 2003 General Assembly enacted the 2002-2004 biennium Road Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, and except as otherwise modified by this Act, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 04-01.

26. State Purchases of Motor Vehicle Liability Insurance: Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

27. Use Tax on Sales of Printing or Direct Mail Advertising Materials: Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

a. Maintain records relating to these sales to assist in the collection of the use tax owed; and

b. File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

28. Cigarette Tax Evidence Compensation: Notwithstanding KRS 138.146(4), after June 30, 2003, the compensation allowed shall be equal to $0.15 face value for each $3 of cigarette tax evidence purchased at face value.

29. Sales and Use Tax Collection and Remittance Compensation: Notwithstanding KRS 139.570, after June 30, 2003, the total reimbursement allowed shall not exceed $1,500. Notwithstanding KRS 139.250 or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

30. **Abandoned Property Receipts/General Fund:** Notwithstanding KRS 393.015, all abandoned property receipts collected, net of claims paid, in fiscal years 2004-2005 and 2005-2006 shall be available for appropriation in the General Fund.

31. **Reallocation of Appropriations Among Budget Units:** The Executive Branch shall operate within the appropriations authorized in this Act for each budget unit as prescribed by KRS 48.400 to 48.730, subject to the conditions and procedures stated in this section or other Parts of this Act.

The Secretary of a Cabinet, the Commissioner of the Department of Education, and other agency heads may request, prior to December 1, 2004, a revision or reallocation among budget units under their administrative authority of up to ten percent of General Fund or Restricted Funds appropriations contained in Part I, Operating Budget, of this Act for fiscal year 2004-2005 and fiscal year 2005-2006. No request shall relate to moneys in a fiduciary fund account unless the account is affected by a reorganization order promulgated under KRS 12.027. Any request which shall be submitted to and, if authorized by the State Budget Director, shall be implemented and executed prior to December 15, 2004. A request shall explain the need and use for the transfer authority under this section.

The amount of transfer of General Fund and Restricted Funds appropriations shall be made by Executive Order of the Governor and shall be separately recorded and reported in the system of financial accounts and reports provided in KRS Chapter 45.

No transfer shall result in any reduction to an item of appropriation contained in Part I, Operating Budget, of this Act. The State Budget Director shall report a revision or transfer made under this section, in writing, to the Interim Joint Committee on Appropriations and Revenue at least 30 days prior to the proposed transfer. The Committee shall review the transfer in the same manner and procedure as provided for an interim unbudgeted appropriation action under KRS 48.630.

32. **Deduction for Taxes Paid to Foreign Countries:** Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2002, the deduction for taxes paid to foreign countries is not allowable.

33. **Sales and Use Tax on Natural Gas Distribution Services:** Notwithstanding KRS 139.100, effective June 1, 2003, the furnishing of natural gas distribution services or natural gas transmission or transportation services shall be retail sales subject to sales and use tax except for the furnishing of those services to residential customers as defined in KRS 139.470(8).

34. **Office Space:** Within 30 days of the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall assure that the Capitol Annex space allocated to the legislative branch by KRS 56.463(4)(b) and designated for occupancy by the October 1, 2003 Resolution of the Legislative Research Commission shall be vacated by the executive branch and available for immediate occupancy by the legislative branch. The Secretary of the Finance and Administration Cabinet shall be authorized to lease such additional space as may be necessary to comply with the provisions of this paragraph.

The Secretary of the Finance and Administration Cabinet shall not authorize the expansion of additional office space or improvement of leased space for any state agency for existing leases or for any new leases for additional space except as necessary to address public health and safety issues which have been documented to comply with a federal or state mandate or to reduce current lease costs.

The Secretary of the Finance and Administration Cabinet is directed to provide office space for each statewide elected Constitutional officer in either the State Capital or State Capital Annex.

35. **Unclassified Employees:** Effective July 1, 2004, the number of unclassified employees shall not exceed the number of filled unclassified positions as of December 1, 2003. The Governor shall direct all agencies of the Executive Branch, including Constitutional Officers, as to the number of unclassified positions for each agency. For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, or any other position subject to the provisions of KRS 11.040(1) or KRS 12.050.

36. **Designated General Fund Carry Forward:** Notwithstanding KRS 48.700 and 48.705 and other Parts in this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2003-2004 and fiscal year 2004-2005, the actual amount of undesignated balance of the General Fund for the year just ended. The amounts from the undesignated fiscal year 2003-2004 and fiscal year 2004-2005 General Fund balances (General Fund Surplus Account, KRS 48.700) that are designated and carried forward for budgeted purposes in the 2004-2006 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. The General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Plan contained in Part VII unless otherwise provided in this Act.

37. **Reduction In State Utility Costs:** The Finance and Administration Cabinet is hereby directed to continue to review current practices to reduce energy costs to achieve a government-wide savings of total utility costs. The Cabinet is empowered to utilize expertise in the Department of Natural Resources, the Public Service Commission, and other agencies to accomplish this goal.

38. **Cellular Telephones/Electronic Devices:** By 90 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall review the use of cellular telephones and other types of electronic communication devices and issue guidelines to state agencies specifying criteria to document the need for such equipment. A copy of the guidelines shall be transmitted to the Interim Joint Committee on Appropriations and Revenue at the time of issuance.

39. Sole Source Contracts: Notwithstanding KRS 45A.095:

a. A contract may be made by noncompetitive negotiation only:

(1) For contractual services where no competition exists, such as electrical energy and other public utility services;

(2) Where rates are fixed by law or ordinance;

(3) For library books;

(4) For commercial items that are purchased for resale;

(5) For interests in real property;

(6) For visiting speakers, professors, expert witnesses, and performing artists;

(7) For personal service contracts executed pursuant to KRS 45A.690(1)(d) and (f) and 45A.720;

(8) For agricultural products in accordance with KRS 45A.645; and

(9) For an emergency;

b. The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency exists;

c. "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment;

d. The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the Secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state; and

e. The following entities may use noncompetitive negotiation for sole source purchases when competition is not feasible or when an emergency exists:

(1) Governing boards of state universities in accordance with KRS 164A.575; and

(2) Any other contracting body, as defined in KRS 45A.690, that has statutory exemptions from KRS Chapter 45A.

Sole source is a situation in which there is only one known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no fewer than three suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Awards shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record.

40. Furniture Purchases: The General Assembly declares that the financial condition of the Commonwealth requires that, notwithstanding KRS 45.760(12) and (14), no state agency shall purchase new equipment or furniture unless the item must be replaced due to damage or loss, unless the Secretary of the Finance and Administration Cabinet approves the equipment or furniture purchase based on documentation of the necessity and impact on government services if the purchase is not made. If a purchase is authorized, the Division of Correctional Industries or the Division of Surplus Property shall be utilized whenever possible.

41. Contract Restriction: The Secretary of the Finance and Administration Cabinet shall not approve or make payment for any personal service contract or memorandum of agreement to a person who was employed in a KRS Chapter 18A unclassified position as of the effective date of this Act. For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, or any other position subject to the provisions of KRS 11.040(1) or 12.050.

42. Contract Expenses: The General Assembly declares that the financial condition of the Commonwealth requires that expenses for contractual expenses be restricted as provided in this section. For fiscal year 2004-2005 and for fiscal year 2005-2006, the total dollars authorized for expenditures for Personal Service Contracts and Memoranda of Agreement shall not exceed the total expenditures for each category in fiscal year 2003-2004. For purposes of this provision, the expenditure limitation shall be based on Personal Service Contracts and Memoranda of Agreement reportable to the Government Contract Review Committee. The expenditure limitation shall not be applied to Medicaid managed care contracts. In addition, the expenditure limitation may be exceeded if necessary to avoid the loss of Federal Funds or for emergencies solely related to public health or safety, legal defense, or other extraordinary circumstance. If an exception is authorized by the Secretary of the Finance and Administration Cabinet, the Legislative Research Commission shall be notified at the time such action is taken.

43. Printing: The General Assembly declares that the financial condition of the Commonwealth requires that the Secretary of the Finance and Administration Cabinet shall review all state printing, including publications and the associated cost of storage and distribution, and direct all state agencies to use Internet and other electronic technology to provide public access to the fullest extent possible in order to reduce costs. The Secretary is further directed to reduce printing-related expenses by 25% in each fiscal year.

44. **Permanently Assigned Vehicles:** The Secretary of the Finance and Administration Cabinet and the Secretary of the Transportation Cabinet shall not authorize any permanently assigned vehicles, except to the Court of Justice, Secretaries of the Executive Cabinet, and for law enforcement or other public safety purposes.

45. **Travel Expenditures:** All state agencies shall continue to monitor all travel expenditures and shall utilize state parks or other state facilities to the fullest extent feasible. The Secretary of the Finance and Administration Cabinet shall review all out-of-state travel requests for three or more state employees to attend the same destination or event and shall approve the requests if deemed necessary.

46. **State Vehicle Reduction:** The General Assembly declares that the financial condition of the Commonwealth requires that the Secretary of the Finance and Administration Cabinet, pursuant to KRS 44.045 and in conjunction with the Secretary of the Transportation Cabinet, shall reduce the number of state vehicles assigned to agencies by 500 vehicles within 90 days of the effective date of this Act.

47. **Privatization:** The Secretary of the Finance and Administration Cabinet, or any other agency with delegated authority under KRS Chapter 45A, shall not give final authorization or approval to the execution of any contractual agreement for the privatization of any state service or facility which is currently performed by state employees unless the following actions have been completed

a. A report shall be prepared, pursuant to KRS 45A.551, and submitted to the Legislative Research Commission, which shall describe the service or facility to be privatized. The report shall be filed at least 45 days prior to the issuance of any request for proposals to procure the service a program, function or activity.

b. Within 30 days of receiving the report specified in paragraph a., the Legislative Research Commission or any legislative committee to which the report is referred, may request additional information regarding the proposal. The agency shall not proceed with the bid process until a response is filed with the committee or the Legislative Research Commission.

c. After the bids are received and evaluated, the agency shall provide notice of any proposed action to the Legislative Research Commission at least 30 days prior to selecting a vendor for the proposed agreement.

These requirements shall be in addition to any provisions of KRS Chapter 45A.

48. **School District Efficiency and Effectiveness Review:** The Office of Education Accountability is directed to conduct an inventory and assessment of indicators that may be used to analyze financial, academic, and demographic data in order to evaluate school performance. The inventory and assessment shall be under the direction of the Education Assessment and Accountability Review Subcommittee pursuant to KRS 7.410. With approval of the Subcommittee and the Legislative Research Commission, funds may be used to contract for special expertise in the area of financial or performance reviews.

49. **Abandoned Property held by Financial Institutions:** Notwithstanding KRS 393.060, the dormancy period for property held or owing by a banking or financial institution, other than traveler's checks, shall be three years rather than seven years.

50. **Sale of Escheated Securities by Treasury Department:** Notwithstanding KRS 393.125, the department, within three years of the receipt of securities, shall sell the securities. A person making a claim of securities held less than three years by the department and sold by the department shall only be entitled to the proceeds of the sale of the securities, less any deduction for expenses of the sale.

51. **Payment of Excise Tax by Harness Racetracks:** Notwithstanding KRS 138.510, for fiscal year 2004-2005 and fiscal year 205-2006, all harness racetracks licensed by the Kentucky Horse Racing Authority shall not be required to pay the excise tax imposed under KRS 138.510(2) and that amount that would have been paid shall be retained by the track to promote and maintain its facilities and its live meet.

52. **Joint System of Park and Recreational Facilities:** Notwithstanding KRS 97.035, any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint park and recreational system under this section may by joint action create a joint city/county department to maintain and conduct park and recreational system or systems. In such event, the joint city/county park and recreational system board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of city and county.

53. **Review of Bonds:** The 2005 General Assembly shall review all Capital Construction Projects authorized in this Act which have not been issued and may determine if economic conditions warrant the issuance of these bonds.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. **Maximum Filled Permanent Positions:** Notwithstanding KRS 18A.010(2), for the 2004-2006 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2004-2006 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. **Annual Organizational Review and Vacant Position Abolishment:** The Commissioner of the Department of

Personnel shall conduct an annual organizational review of all state agencies in accordance with this Act.

a. As used in this section, unless the context indicates otherwise:

(1) "Management position" means any position that heads an organizational unit;

(2) "Organizational unit" means any unit of an organization in the executive branch of state government that is not an administrative body, including but not limited to any agency, program cabinet, department, bureau, division, section, or office, as defined in KRS 12.010; and

(3) "Commissioner" means the Commissioner of the Department of Personnel or the executive head of its successor agency.

b. The Commissioner of the Department of Personnel shall review annually the number of permanent, full-time positions assigned to each organizational unit. By October 1 each year, after review with the appointing authority, the Commissioner shall provide the Legislative Research Commission with the justification to retain any organizational unit consisting of five or fewer full-time positions.

c. If, as a result of this organizational review, an organizational unit is abolished by the appointing authority, the Commissioner shall assist the appointing authority in transferring all permanent, full-time classified employees with status to other organizational units within that agency.

d. A classified employee in a management position of an organizational unit that is abolished as a result of this review who is not transferred to a similar management position in a different organizational unit may retain the management classification, grade, and pay level for 12 months in the organizational unit to which the employee is transferred even if it is not authorized in the gaining unit.

e. After the 12 month period, the employee shall be reclassified to the appropriate classification by the Commissioner. The employee shall retain his or her current salary, including annual increments and cost-of-living adjustments, until the employee advances to a higher grade level than the management position from which the employee was reclassified.

f. The Commissioner of Personnel shall abolish any organizational unit management position in any agency that is vacant, and not advertised for filling, for 90 days and review with the appointing authority the necessity to retain the organizational unit.

3. **Authorized Personnel Complement:** On July 1, 2004, the Department of Personnel shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Commissioner of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

4. **Cost-of-Living Adjustment:** Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of one and one-half percent is provided in fiscal year 2004-2005 and three percent is provided in fiscal year 2005-2006 on the base salary or wages of each eligible state employee on their anniversary date.

5. **Maximum Salary and Salary Advancements for Unclassified Employees:** Except as provided by this section, no salary exceeding a total of $9,000 monthly shall be paid to a person appointed to an unclassified or ungraded position in a state agency under the provisions of KRS 11.040, 12.040, 12.050, 12.255, or KRS Chapter 151B on or after December 1, 2003. This monthly salary limit shall not apply to any constitutional officer or other person where the salary of the position is set by statute. Salary increases for the following KRS Chapter 18A or 151B unclassified positions: Cabinet Secretary, Deputy Secretary, Commissioner, Deputy Commissioner, Executive Director, Deputy Executive Director, Division Director, Principal Assistant, General Counsel; or any other position subject to the provisions of KRS 11.040, 12.040, 12.050, 12.255, or KRS Chapter 151B, shall be limited to cost-of-living adjustments provided to classified merit system employees in this Act.

6. **Employee Health Insurance COLA Payment:** An Employee Health Insurance Cost-of-Living Adjustment (COLA) Payment of one and one-half percent in fiscal year 2004-2005 and fiscal year 2005-2006 shall be added to the base salary or wages of each eligible state employee on their anniversary date in each fiscal year. This Health Insurance COLA shall be in addition to other increments or salary advancements that the employee may be eligible for and are provided for in this Act or KRS Chapter 18A.

a. The Commissioner of Personnel shall maintain a monthly record of the cost incurred by state agencies granting this COLA and shall reimburse each state agency, at least quarterly, for that portion of the salary and retirement cost incurred that is not covered by Federal Funds, Agency Funds, or other special funds available to the agency. This reimbursement shall come from the Employee Health Insurance COLA Account established in Part I of this Act.

b. The Commissioner of Personnel shall provide the Interim Joint Committee on Appropriations and Revenue with a quarterly report of the cost of the Employee Health Insurance COLA payment by agency and the amount reimbursed to each agency from the Employee Health Insurance COLA Account. The first report shall be submitted by November 1, 2004.

PART V

FUNDS TRANSFER

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the requirements of the Restricted Funds enumerated below, there is transferred to the General Fund the following amounts in fiscal year 2003-2004, fiscal year 2004-2005, and fiscal year 2005-2006.

		2003-2004	2004-05	2005-06
A.	**GENERAL GOVERNMENT**			
1.	**Department of Personnel - General Operations** (KRS 18A.015(4))	355,600	15,000	15,000
2.	**Department of Personnel** Flexible Spending Account (KRS 18A.225(2)(g))	-0-	2,000,000	1,500,000
3.	**Governor's Office of Agricultural Policy** Agency Revenue Fund	4,000	-0-	-0-
4.	**Veterans' Affairs** Agency Revenue Fund	306,700	-0-	-0-
5.	**Secretary of State** Limited Liability Companies (KRS 14.140)	20,600	1,500,000	1,000,000
6.	**Secretary of State** Agency Revenue Fund	-0-	884,800	-0-
7.	**Board of Elections** Agency Revenue Fund	2,900	84,900	22,900
8.	**Treasury - Unclaimed Property** (KRS 393.250(1))	20,500	-0-	-0-
9.	**Department of Agriculture** (KRS 217B.580, 248.290(2), 251.430, 260.650, 363.330, 363.906, and 438.335)	153,800	-0-	-0-
10.	**Military Affairs** Agency Revenue Fund	473,700	-0-	-0-
11.	**Local Government** County Cemetery Fund (KRS 67.682)	35,100	-0-	-0-
12.	**Local Government Support Services Restricted Fund**	-0-	3,000	-0-
13.	**Local Government Economic Development Fund** (KRS 42.4592)	-0-	-0-	5,244,200
14.	**Commission on Women** Agency Revenue Fund	800	-0-	-0-
15.	**Registry of Election Finance** Election Campaign Fund (KRS 121A.020)	500	897,400	43,000
16.	**Board of Emergency Medical Services** (KRS 311A.145)	5,000	-0-	-0-
17.	**Governmental Services Center**			

	Agency Revenue Fund	37,900	-0-	-0-
18.	**Kentucky River Authority**	86,400	-0-	-0-
	(KRS 151.720)			
19.	**Accountancy** 19,600	-0-	-0-	
	(KRS 325.250)			
20.	**Architects**			
	Agency Revenue Fund	6,500	-0-	-0-
21.	**Auctioneers** 9,300	-0-	-0-	
	(KRS 330.050 and 330.192)			
22.	**Barbering**	5,800	-0-	-0-
	(KRS 317.530)			
23.	**Chiropractic Examiners**			
	Agency Revenue Fund	4,800	-0-	-0-
24.	**Dentistry**	12,600	-0-	-0-
	(KRS 313.350)			
25.	**Embalmers and Funeral Home Directors**			
	Agency Revenue Fund	6,200	-0-	-0-
26.	**Engineers and Land Surveyors**	33,900	-0-	-0-
	(KRS 322.420)			
27.	**Geologists** 25,000	-0-	-0-	
	(KRS 322A.050)			
28.	**Hairdressers and Cosmetologists**	17,600	-0-	-0-
	(KRS 317A.080)			
29.	**Interpreters for Deaf and Hard of Hearing** 2,000	-0-	-0-	
	(KRS 309.306)			
30.	**Landscape Architects**			
	Agency Revenue Fund	1,400	-0-	-0-
31.	**Marriage and Family Therapists**	3,000	-0-	-0-
	(KRS 335.342)			
32.	**Medical Licensure**	60,500	-0-	-0-
	(KRS 311.610)			
33.	**Nursing**			
	Agency Revenue Fund	102,700	-0-	-0-
34.	**Ophthalmic Dispensers**	2,000	-0-	-0-
	(KRS 326.120)			
35.	**Optometric Examiners**	3,900	-0-	-0-
	(KRS 320.360)			
36.	**Pharmacy**	21,700	-0-	-0-
	(KRS 315.195)			
37.	**Physical Therapy**	7,000	-0-	-0-
	(KRS 327.080)			
38.	**Podiatry**	400	-0-	-0-
	(KRS 311.450)			
39.	**Private Investigators**	2,000	-0-	-0-
	(KRS 329A.030)			
40.	**Real Estate Appraisers**	15,800	-0-	-0-
	(KRS 324A.065)			

41.	**Real Estate Commission**	57,600	-0-	-0-
	(KRS 324.286 and 324.410)			
42.	**Speech-Language Pathology and Audiology**	2,200	-0-	-0-
	(KRS 334A.120)			
B.	COMMERCE CABINET			
1.	**Office of the Secretary**			
	Agency Revenue Fund	90,400	-0-	-0-
2.	**Artisans Center**			
	Agency Revenue Fund	30,000	-0-	-0-
3.	**Travel**			
	Agency Revenue Fund	1,700	-0-	-0-
4.	**State Parks**			
	State Parks Fund	1,255,600	-0-	-0-
5.	**Kentucky Horse Park**			
	Kentucky Horse Park Fund	150,300	-0-	-0-
6.	**Kentucky State Fair Board**			
	State Fair Board Fund	500,000	-0-	-0-
7.	**Historical Society**			
	Agency Revenue Fund	14,300	-0-	-0-
8.	**Arts Council**			
	Agency Revenue Fund	17,100	-0-	-0-
9.	**Heritage Council**			
	Agency Revenue Fund	16,200	-0-	-0-
C.	ECONOMIC DEVELOPMENT CABINET			
1.	**Office of the Secretary**			
	Agency Revenue Fund	179,000	-0-	-0-
2.	**Kentucky Economic Development Finance Authority**	-0-	3,000,000	2,000,000
	(KRS 154.20-010 to 154.20-150)			
	D. DEPARTMENT OF EDUCATION			
1.	**Operations and Support Services**			
	Agency Revenue Fund	101,600	-0-	-0-
2.	**Emergency Revolving School Loan Fund Account**	-0-	750,000	-0-
	(KRS 160.599)			
3.	**School Disticts Flexible Spending Accounts**	-0-	5,000,000	-0-
	Agency Restricted Fund			
E.	EDUCATION CABINET			
1.	**General Administration and Program Support**			
	Agency Revenue Fund	167,400	-0-	-0-
2.	**Office of the Secretary**			
	Agency Revenue Fund	4,000	-0-	-0-
3.	**Kentucky Educational Television**			
	Agency Revenue Fund	33,400	-0-	-0-
4.	**Deaf and Hard of Hearing**			

	Agency Revenue Fund	6,500	-0-	-0-
5.	**Environmental Education Council**			
	Agency Revenue Fund	4,800	-0-	-0-
6.	**Libraries and Archives**			
	Agency Revenue Fund	46,000	-0-	-0-
7.	**Education Professional Standards Board**			
	Agency Revenue Fund	20,700	-0-	-0-
8.	**Technical Education**			
	Agency Revenue Fund	56,000	-0-	-0-
9.	**Vocational Rehabilitation**			
	(KRS 151B.470)	73,900	-0-	-0-
10.	**Unemployment Insurance Penalty**			
	and Interest Account	186,100	-0-	-0-
	(KRS 341.835)			
F.	**ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**			
1.	**Office of the Secretary**	450,000	-0-	-0-
	Agency Revenue Fund			
2.	**Public Protection - General Operations**			
	Agency Revenue Fund	477,700	-0-	-0-
3.	**Athletic Commission**	4,200	-0-	-0-
	(KRS 229.250)			
4.	**Natural Resources**			
	Agency Revenue Fund	97,500	-0-	-0-
5.	**Environmental Protection**	351,400	-0-	-0-
	(KRS 224.20-310 and 224.20-050)			
6.	**Surface Mining**			
	Agency Revenue Fund	145,900	-0-	-0-
7.	**Claims/Crime Victims'**			
	Compensation 1,500	-0-	-0-	
	(KRS 346.185)			
8.	**Alcoholic Beverage Control**	107,400	250,000	250,000
	(KRS 243.025)			
9.	**Financial Institutions**	638,200	320,000	3,107,100
	(KRS 287.485)			
10.	**Insurance**	2,116,000	4,289,800	25,128,200
	(KRS 304.2-400 and			
	304.17B-001 to 304.17B-031)			
11.	**Insurance**			
	Fire and Tornado Fund	-0-	500,000	500,000
	(KRS 56.180(2))			
12.	**Kentucky Horse Racing Authority**			
	Health and Welfare Fund	49,600	1,500,000	1,500,000
	(KRS 230.361 to 230.375)			
13.	**Kentucky Horse Racing Authority**			
	Administration and Regulation	-0-	300,000	300,000
	(KRS Chapter 230)			
14.	**Housing, Buildings and**			
	Construction 90,100	750,000	750,000	

	(KRS 318.136)			
15.	**Mines and Minerals**	36,600	-0-	-0-
	(KRS 351.110)			
16.	**Mines and Minerals**			
	Well Plugging Fund	-0-	1,500,000	1,500,000
	(KRS 353.590(9))			
17.	**Public Advocacy**	20,600	-0-	-0-
	(KRS 31.211, 189A.050(3)(b))			
18.	**Charitable Gaming**	191,200	300,000	300,000
	(KRS 238.570)			
19.	**Petroleum Storage Tank**			
	Assurance Fund	291,200	17,500,000	55,300,000
	(KRS 224.60-130 to 224.60-155)			
20.	**Environmental Protection Guaranty Bond**			
	Forfetiture - Interest Bearing	-0-	1,000,000	1,000,000
	(KRS Chapter 350)			
G.	FINANCE AND ADMINISTRATION CABINET			
1.	**General Administration**			
	Agency Revenue Fund	66,700	27,500	-0-
2.	**General Administration**			
	Capital Construction Surplus Fund	-0-	1,888,000	-0-
	(KRS 45.775)			
3.	**General Administration**			
	Capital Construction Investment Income			
	(KRS 42.500) -0-	22,320,000	11,430,000	
4.	**General Administration -Empower KY**			
	Agency Restricted Funds	-0-	4,496,400	-0-
5.	**Office of the Controller**			
	Agency Revenue Fund	10,400	-0-	-0-
6.	**Department for Administration**			
	Agency Revenue Fund	130,000	-0-	-0-
7.	**Department for Facilities Management**			
	Physical Plant			
	Property Management Fund	702,600	-0-	-0-
8.	**Revenue**	103,700	-0-	-0-
	(KRS 132.672, 134.400,			
	154.12-219, and 365.390(2))			
9.	**Property Valuation Administration**	111,600	-0-	-0-
	(KRS 132.590 and 132.597)			
H.	HEALTH AND FAMILY SERVICES CABINET			
1.	**General Administration and**			
	Program Support	169,100	-0-	-0-
	(KRS 212.025(2))			
2.	**General Administration and**	**Program Support**		
	Agency Revenue Fund	61,200	-0-	-0-
3.	**Children with Special Health**			
	Care Needs 440,900	-0-	-0-	
	(KRS 212.025(2))			

4.	**Children with Special Health**	**Care Needs - Tobacco**		
	Tobacco Fund 49,000	-0-	-0-	
	(KRS 200.151)			
5.	**Medicaid - Administration**			
	Agency Revenue Fund	520,200	-0-	-0-
6.	**Mental Health and Mental**			
	Retardation Services	4,438,600	-0-	-0-
	(KRS 212.025(2))			
7.	**Public Health** 1,647,900	261,700	358,800	
	(KRS 212.025(2) and 213.141(3))			
8.	**Certificate of Need**	4,100	-0-	-0-
	(KRS 212.025(2))			
9.	**Aging Services**	19,000	-0-	-0-
	(KRS 212.025(2))			
10.	**Disability Determinations**			
	Agency Revenue Fund	1,600	-0-	-0-
11.	**Community Based Services**			
	Agency Revenue Fund	5,087,900	-0-	-0-
I.	**JUSTICE AND PUBLIC SAFETY CABINET**			
1.	**Justice Administration**			
	Agency Revenue Fund	37,400	369,500	369,500
2.	**State Police**			
	Agency Revenue Fund	292,900	-0-	-0-
3.	**Juvenile Justice**			
	Agency Revenue Fund	392,300	-0-	-0-
4.	**Kentucky Law Enforcement**			
	Foundation Program Fund	922,100	15,500,000	14,000,000
	(KRS 15.430)			
5.	**Corrections Management**			
	Agency Revenue Fund	502,200	-0-	-0-
6.	**Corrections - Community Services**			
	and Local Facilities			
	Agency Revenue Fund	8,400	-0-	-0-
J.	**POSTSECONDARY EDUCATION**			
1.	**Council on Postsecondary Education**			
	Agency Revenue Fund	133,000	-0-	-0-
2.	**Technology Initiative Trust Fund**	132,900	-0-	-0-
	(KRS 164.7911 to 164.7921)			
3.	**Eastern Kentucky University**			
	Agency Revenue Fund	2,415,700	-0-	-0-
4.	**Kentucky State University**			
	Agency Revenue Fund	586,600	-0-	-0-
5.	**Morehead State University**			
	Agency Revenue Fund	1,501,300	-0-	-0-
6.	**Murray State University**			
	Agency Revenue Fund	1,632,900	-0-	-0-
7.	**Northern Kentucky University**			
	Agency Revenue Fund	1,951,600	-0-	-0-

8.	**University of Louisville**			
	Agency Revenue Fund	4,400,000	-0-	-0-
9.	**Western Kentucky University**			
	Agency Revenue Fund	2,381,600	-0-	-0-
10.	**Kentucky Community and Technical College System**			
	Agency Revenue Fund	5,865,600	-0-	-0
11.	**Kentucky Higher Education Assistance Authority**	-0-	500,000	500,000
	(KRS 164A.010 to KRS 164A.240)			
12.	**Firefighters Foundation Program Fund**	-0-	9,000,000	3,500,000
	(KRS 95A.220)			
K.	**TRANSPORTATION CABINET**			
1.	**General Administration and Support**			
	Fleet Management Fund	1,374,100	5,000,000	1,000,000
2.	**Air Transportation**			
	Kentucky Aviation Economic Development Fund	700,000	-0-	-0-
	(KRS 183.525(3), (4), and (5))			
TOTAL - FUNDS TRANSFER		48,746,200	101,708,000	130,618,700

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $7,171,300,000 in fiscal year 2004-2005 and $7,475,900,000 in fiscal year 2005-2006 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2004-2005 and 50 percent of the trust fund balance in fiscal year 2005-2006.

(5) Notwithstanding the provisions of KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the

budget by such actions conforming with the criteria expressed in the preceding subsection. Other items that may be specified in this Act are exempt from actions that may be taken by the Governor pursuant to the provisions of this Act.

PART VII

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2004-2005 and 2005-2006. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount determined in Part III, section (36), are appropriated for the purposes and in the priority sequence as follows: (1) Teacher salary funding support to public school districts in an amount sufficient to provide for the recurring impact in fiscal year 2005-2006 of the one and one-half percent pay increase provided by school districts in fiscal year 2004-2005 to the extent that amount is not already provided in this bill. The appropriate amount shall be calculated by the State Budget Director in consultation with the Commissioner of the Department of Education and the Secretary of the Education Cabinet. In the event that insufficient General Fund Surplus moneys are realized after the close of fiscal year 2003-2004 and fiscal year 2004-2005, the amount calculated as necessary by the State Budget Director shall be reserved and appropriated from the Budget Reserve Trust Fund for expenditure in fiscal year 2005-2006; and (2) Increased support to the Budget Reserve Trust Fund up to the amount necessary to provide a balance equaling five percent of actual General Fund revenues for fiscal year 2003-2004 and fiscal year 2004-2005, respectively.

2. The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2003-2004, and the close of fiscal year 2004-2005, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2004-2005 and fiscal year 2005-2006.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2004, and June 30, 2005, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated respectively for expenditure in fiscal year 2004-2005 and fiscal year 2005-2006 pursuant to the Plan.

PART VIII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2004-2005 and fiscal year 2005-2006. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,141,409,100 in fiscal year 2004-2005 and $1,162,506,700 in fiscal year 2005-2006 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART IX

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the fiscal biennium 2004-2006 Biennial Highway Construction Program.

PART X

PHASE I TOBACCO SETTLEMENT

(1) **General Purpose: Part X of this** Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

(2) **State's MSA Share:** The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA were made to the states in January and April of each year through 2003 and will be made annually in January thereafter.

(3) **MSA Payment Amount Variables:** The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

(4) **Distinct Identity and Carry Forward of MSA Payment Deposits:** The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended. Phase I Tobacco Settlement payment receipts in excess of the appropriated amounts contained in this Part shall not be utilized as part of any General Fund Budget Reduction Plan, and shall be exempt from all requirements of a Plan implemented

under Part VI of this Act.

(5) **MSA Payment Estimates and Adjustments:** Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2004-2005 is $108,800,000 and in fiscal year 2005-2006 is $108,600,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet. Certified payment receipts in a fiscal year that are in excess of appropriations contained in this Part for that fiscal year are appropriated to the Tobacco Settlement Agreement Fund in the General Fund for distribution in accordance with KRS 248.654, and shall be available for and subject to future appropriations by the General Assembly. The Secretary of the Finance and Administration Cabinet shall report to the Legislative Research Commission the amount of certified payment receipts for each fiscal year, noting the amount for each fiscal year, if any, of payment receipts in excess of appropriated amounts contained in this Part which have been deposited in the Tobacco Settlement Agreement Fund and distributed in accordance with KRS 248.654 pursuant to this section.

a. **State Enforcement:** Notwithstanding KRS 248.654, a total of $175,000 of the MSA payments received each fiscal year of the 2004-2006 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

b. **Agricultural Development Initiatives:** Fifty percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2004-2005, estimated to be $54,312,500, and in fiscal year 2005-2006, estimated to be $54,212,500, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives as specified below.

c. **Early Childhood Development Initiatives:** Twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2004-2005, estimated to be $27,156,200, and in fiscal year 2005-2006, estimated to be $27,106,200, is appropriated for Early Childhood Development Initiatives as specified below.

d. **Health Care Initiatives:** Twenty-five percent of the MSA payments received, less the above enforcement appropriations, in fiscal year 2004-2005, estimated to be $27,156,300, and in fiscal year 2005-2006, estimated to be $27,106,300, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

A. STATE ENFORCEMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2004-05	2005-06
a. Revenue	175,000	175,000

B. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2004-05	2005-06
a. Governor's Office of Agricultural Policy	39,195,900	33,099,300

(1) **Tobacco Settlement Funds – Allocations:** Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is up to $1,600,000 in fiscal year 2004-2005 and $1,600,000 in fiscal year 2005-2006 for the University of Kentucky Cooperative Extension Service to support the cost of providing a one-time bonus in each fiscal year for county extension agents in addition to any salary adjustments which may be made. Bonuses provided to county extension agents shall be provided in equal amounts to each county extension agent. (2) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs directly related to the performance of the duties prescribed in KRS 248.721. Administrative costs shall include only those expenditures that are directly related to the evaluation of needs, development of plans identifying programs in the county in need of agricultural development, and assisting applicants in obtaining money from the Agricultural Development Fund. Expenditures that are not directly attributable to the county council, and expenditures attributable to the operations of the county extension service, are not administrative costs.

Budget Unit	2004-05	2005-06
b. Kentucky Infrastructure Authority	-0-	6,000,000

(1) **Debt Service:** Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is $6,000,000 in fiscal year 2005-2006 for debt service for the Water and Sewer Resources Development Fund for Tobacco Counties provided in Part II, Capital Projects Budget. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund. Future debt service payments for the Water and Sewer Resources Development Fund for Tobacco Counties shall be provided from the General Fund.

2. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Unit	2004-05	2005-06

a.	Natural Resources - Conservation	9,000,000	9,000,000

(1) **Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is $9,000,000 in each fiscal year for the Environmental Stewardship Program.

3. FINANCE AND ADMINISTRATION CABINET

Budget Unit		**2004-05**	**2005-06**
a.	Debt Service	6,116,600	6,113,200

(1) **Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

TOTAL - AGRICULTURAL APPROPRIATIONS 54,312,500 54,212,500

C. EARLY CHILDHOOD DEVELOPMENT
GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. EDUCATION CABINET

Budget Unit		**2004-05**	**2005-06**
a.	Learning and Results Services	1,888,400	1,888,400

2. HEALTH AND FAMILY SERVICES CABINET

Budget Units		**2004-05**	**2005-06**
a.	Community Based Services	8,300,400	8,300,400

(1) **Early Childhood Development Program and Child Advocacy Centers:** Included in the above General Fund (Tobacco) appropriation is $8,120,400 in fiscal year 2004-2005 and $8,120,400 in fiscal year 2005-2006 for the Early Childhood Development Program, and $180,000 in fiscal year 2004-2005 and $180,000 in fiscal year 2005-2006 for Child Advocacy Centers.

b.	Public Health	13,712,400	13,662,400

(1) **HANDS Program, Healthy Start, Universal Children's Immunizations, Folic Acid Program, Early Childhood Mental Health, and Early Childhood Oral Health:** Included in the above General Fund (Tobacco) appropriation is $7,599,900 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program; $2,000,000 in each fiscal year for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $900,000 in each fiscal year for the Folic Acid Program; $875,000 in each fiscal year for Early Childhood Mental Health; and $337,500 in fiscal year 2004-2005 and $287,500 in fiscal year 2005-2006 for Early Childhood Oral Health.

c.	Mental Health and Mental Retardation Services	900,000	900,000

(1) **Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is $900,000 in each fiscal year for substance abuse prevention and treatment.

d.	Commission for Children with Special Health Care Needs	1,455,000	1,455,000

(1) **Universal Newborn Hearing Screening, Vision Screening, and Kentucky Early Intervention Services First Steps Program:** Included in the above General Fund (Tobacco) appropriation is $450,000 in each fiscal year for Universal Newborn Hearing Screening; $5,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

3. POSTSECONDARY EDUCATION

Budget Unit		**2004-05**	**2005-06**
a.	Kentucky Higher Education Assistance Authority	900,000	900,000

(1) **Early Childhood Scholarships:** Included in the above General Fund (Tobacco) appropriation is $900,000 in fiscal year 2004-2005 and $900,000 in fiscal year 2005-2006 for Early Childhood Scholarships.

TOTAL - EARLY CHILDHOOD APPROPRIATIONS 27,156,200 27,106,200

D. HEALTH CARE IMPROVEMENT APPROPRIATIONS
GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Unit	2004-05	2005-06
a. Insurance	16,782,600	16,751,700

(1) Kentucky Access Program: Included in the above General Fund (Tobacco) appropriation is $16,782,600 in fiscal year 2004-2005 and $16,751,700 in fiscal year 2005-2006 for the Kentucky Access Program.

2. HEALTH AND FAMILY SERVICES CABINET

Budget Unit	2004-05	2005-06
a. Public Health	2,715,600	2,710,600

(1) Smoking Cessation Program: Included in the above General Fund (Tobacco) appropriation is $2,715,600 in fiscal year 2004-2005 and $2,710,600 in fiscal year 2005-2006 for the Smoking Cessation Program.

Budget Unit	2004-05	2005-06
b. Mental Health/Mental Retardation Services	2,226,800	2,222,700

(1) Substance Abuse Treatment Services: Included in the above General Fund (Tobacco) appropriation is $1,000,000 in each fiscal year for substance abuse treatment services in drug courts, and $1,226,800 in fiscal year 2004-2005 and $1,222,700 in fiscal year 2005-2006 for substance abuse treatment services through Regional Mental Health/Mental Retardation Boards.

3. POSTSECONDARY EDUCATION

Budget Unit	2004-05	2005-06
a. Council on Postsecondary Education	5,431,300	5,421,300
TOTAL - HEALTH CARE APPROPRIATIONS	27,156,300	27,106,300
TOTAL - PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	108,800,000	108,600,000

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

		2003-04	2004-05	2005-06
General Fund - Tobacco		-0-	108,800,000	108,600,000
General Fund	4,685,000	7,118,189,700	7,465,795,600	
Restricted Funds		67,512,500	3,983,616,500	4,123,060,900
Federal Funds	60,845,500	6,469,009,800	6,420,469,800	
Road Fund		-0-	1,129,210,100	1,158,258,700
Bond Funds	-0-	250,000,000	-0-	
SUBTOTAL	133,043,000	19,058,826,100	19,276,185,000	

CAPITAL PROJECTS BUDGET

		2003-04	2004-05	2005-06
General Fund	-0-	800,000	6,100,000	
Restricted Funds		-0-	1,763,287,500	122,202,700
Federal Funds	563,000	181,793,700	58,964,000	
Road Fund		-0-	12,199,000	4,248,000
Bond Funds	-0-	777,133,000	26,768,000	
Agency Bonds	-0-	171,675,000	-0-	
Capital Construction Surplus		-0-	880,000	63,000
Investment Income		-0-	14,599,700	10,160,000
Other Funds	-0-	24,600,000	4,300,000	
SUBTOTAL	563,000	2,946,967,900	232,805,700	

TOTAL - STATE/EXECUTIVE BUDGET

		2003-04	2004-05	2005-06
General Fund - Tobacco		-0-	108,800,000	108,600,000
General Fund	4,685,000	7,118,989,700	7,471,895,600	
Restricted Funds		67,512,500	5,746,904,000	4,245,263,600

Federal Funds	61,408,500	6,650,803,500	6,479,433,800	
Road Fund		-0-	1,141,409,100	1,162,506,700
Bond Funds	-0-	1,027,133,000	26,768,000	
Agency Bonds	-0-	171,675,000	-0-	
Capital Construction Surplus		-0-	880,000	63,000
Investment Income		-0-	14,599,700	10,160,000
Other Funds	-0-	24,600,000	4,300,000	
TOTAL FUNDS		133,606,000	22,005,794,000	19,508,990,700

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

PART XII

TAXATION MEASURES

Notwithstanding KRS 48.310, the following statutes shall be amended as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 134.460 is amended to read as follows:

(1) Certificates of delinquency shall bear interest from the date of issuance until collected at the rate of twelve percent (12%) per annum simple interest. A fraction of a month is counted as an entire month. ***The total amount of the certificate of delinquency, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in Section 2 of this Part shall be included in the base for the interest calculation.***

(2) Certificates of delinquency shall be prima facie evidence that:

(a) The property represented by the certificate was subject to taxes levied thereon, and was assessed as required by law.

(b) The tax bill was valid and correct in all respects.

(c) The taxes were not paid at any time before the issuance of the certificate.

Section 2. KRS 134.500 is amended to read as follows:

(1) ***A certificate of delinquency***[~~Uncollectible tax claims~~] shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The ***total amount of the certificate of delinquency***[~~sheriff's add-on fee provided in KRS 134.430~~], the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be ***included in the base for***[~~excluded from~~] the interest calculation[~~ except in counties containing cities of the first class or consolidated local government~~]. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

PART XIII

HEALTH INFORMATION NETWORK

Notwithstanding KRS 48.310, the following statutes shall be created or amended as follows and shall have permanent effect, subject to future actions of the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that:

(1) In the interest of promoting administrative efficiency and quality patient care, the Commonwealth shall create a board to facilitate the development of a Kentucky Health Information Network. The first order of business of the board shall be to complete a study of the feasibility of developing a network using federal and private funds. The findings of the feasibility study shall be reported to the Kentucky General Assembly. The board shall not possess any power to implement any model or health project without the express consent of the Kentucky General Assembly.

(2) The federal government has encouraged the development of not-for-profit public and private partnerships to implement health information technology networks as a part of the National Health Information Infrastructure. Federal grants have been proposed to support the development of the infrastructure, but it is anticipated that most of the funding will come from private investments.

(3) The goals of the Kentucky Health Information Network shall be to:

(a) Improve patient safety;

(b) Improve health care quality;

(c) Enhance bioterrorism detection;

(d) Empower health care consumers regarding their own personal health information;

(e) Promote better understanding of health care costs; and

(f) Reduce health care transactions costs;

(4) The Kentucky Health Information Network shall be:

(a) An initiative set forth to improve the efficiency, effectiveness, and overall quality of health and health care in Kentucky;

(b) A comprehensive knowledge-based network of interoperable systems of clinical, public health, and personal health information that will improve decision-making by making health information available when and where it is needed;

(c) A set of technologies, standards, applications, and systems that support all facets of individual health, health care, and public health; and

(d) Voluntary with the right to withdraw; and

(5) The Kentucky Health Information Network shall not be a centralized database of medical records.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Information Network Board is hereby created and attached to the Cabinet for Health Services for administrative purposes. The purpose of the board shall be to facilitate the building of the Kentucky Health Information Network in support of the National Health Information Infrastructure.

(2) The board shall be composed of the following members appointed by the Governor:

(a) President, or a designee, of the University of Kentucky;

(b) President, or a designee, of the University of Louisville;

(c) Chief information officer, or a designee, of the Governor's Office for Technology;

(d) Commissioner, or a designee, of the Office for the New Economy;

(e) Commissioner, or a designee, of the Department of Insurance;

(f) Secretary, or a designee, of the Cabinet for Health Services or the commissioner, or a designee, of the Department for Medicaid Services;

(g) Commissioner, or a designee, of the Department for Public Health;

(h) Adjutant general, or a designee, of the Department for Military Affairs or the executive director, or a designee, of the Office for Security Coordination of the Department of Military Affairs;

(i) Four (4) physicians engaged in the practice of medicine in this Commonwealth, two (2) appointed from a list of four (4) physicians recommended by the Kentucky Medical Association and two (2) appointed from a list of four (4) physicians recommended by the Kentucky Public Health Association;

(j) One (1) registered nurse appointed from a list of four (4) nurses recommended by the Kentucky Nurses Association;

(k) One (1) pharmacist appointed from a list of four (4) recommended by the Kentucky Pharmacists Association;

(l) Four (4) members appointed from a list of eight (8) individuals recommended by the Kentucky Hospital Association, two (2) representing rural hospitals, and two (2) representing urban hospitals; and

(m) Four (4) members at large, with two (2) representing health insurance companies and two (2) representing large companies with at least one thousand (1,000) employees, appointed from a list of five (5) individuals recommended by the Associated Industries of Kentucky.

(3) The board shall consist of the following nonvoting ex officio members:

(a) Two (2) members of the Senate, appointed by the President of the Senate; and

(b) Two (2) members of the House of Representatives, appointed by the Speaker of the House.

(4) Members appointed under paragraphs (i) to (m) of subsection (2) of this section shall serve a term of four (4) years and may serve two (2) consecutive terms, except that of the initial members appointed, four (4) members shall be appointed for two (2) years, five (5) members shall be appointed for three (3) years, and five (5) members shall be appointed for four (4) years. Ex officio members designated in paragraphs (a) to (h) of subsection (2) of this section and in subsection (3) of this section shall serve on the board only while holding their respective titles. The board shall annually elect a chairman and a vice chairman from among its appointed members.

(5) The chairman of the board shall be appointed by majority vote of the board.

(6) The board may appoint committees, whose members do not need to be members of the board, to provide

recommendations to the board regarding any aspect of the development of the Kentucky Health Information Network or implementing electronic, administrative, clinical, public health, or personal health applications. Committees may include, but not be limited to a leadership committee, resource committee, provider committee, and health care practitioner committee.

(7) Members of the board shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements when funds are available.

(8) The board shall hire sufficient staff to carry out its work.

(9) The board shall elect an executive board of five (5) members representing two (2) major payor organizations, two (2) provider organizations, and one (1) public health organization to handle the day-to-day operations. Ex officio members shall not serve as members of the executive board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

If funds are available, the Kentucky Health Information Network Board created in Section 2 of this Part shall:

(1) Complete a study of the feasibility of developing a Kentucky health network using federal and private funds;

(2) Create a business plan to become a financially self-sustaining business entity;

(3) Facilitate the development of the Kentucky Health Information Network to create administrative and clinical efficiency and effectiveness and to promote quality and safety of clinical care upon approval of the Kentucky General Assembly;

(4) Apply for federal funds as these become available for the following purposes:

- *(a) Implementing pilot projects to develop a model health information network in support of the development of a national health information infrastructure, which may include but not be limited to applications for insurance enrollment, eligibility checking, claims processing, clinical knowledge management, decision support, telehealth, disease management, public health alert systems, and homeland security, including prevention and detection of, response to, and recovery from acts of terrorism;*
- *(b) Establishing a secure data exchange platform to provide interconnectivity for health care providers, third party payors, and other authorized users;*
- *(c) Formulating public and private partnerships to build the infrastructure and implement health information applications; and*
- *(d) Implementing pilot projects to test computerized health information applications, including but not limited to consumer applications, chronic care management, and public health surveillance;*

(5) Provide recommendations to the Cabinet for Health Services regarding administrative regulations related to:

- *(a) Data standards for communication and information exchange on the Kentucky Health Information Network that are compatible with any standards adopted by the federal Department for Health and Human Services or any other federal agency designated to oversee a national health information infrastructure;*
- *(b) Standards for securing the confidentiality of protected patient information that are consistent with or more stringent than the Federal Health Insurance Portability and Accountability Act of 1996;*
- *(c) Criteria for the disbursement of funds to community partners; and*
- *(d) Evaluation requirements for any projects funded;*

(6) Oversee the administration of any funds received or disbursed to community partners for pilot projects to develop the health information infrastructure or test applications. The match rate shall be limited to an amount equal to the amount of funds that the community partner has committed to the project, except that the board shall comply with federal regulations if federal funds are dispersed;

(7) Evaluate the costs and benefits of the projects funded;

(8) Oversee the implementation and operation of the Kentucky Health Information Network and any related network developed in connection with the board upon approval of the Kentucky General Assembly;

(9) Contract with a system integrator to provide implementation and core operations of the Kentucky Health Information Network;

(10) Promote the development and coordination of services provided by the network;

(11) Promote the marketing of the network and the sale of its services;

(12) Oversee the integration and delivery of services provided by the network; and

(13) Report the progress of the development of the network and a summary of any evaluation of pilot projects to the Interim Joint Committee on Health and Welfare on an annual basis.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Information Network fund is established in the State Treasury. The Kentucky Health Information Network Board shall be authorized to use money in the account for the purposes of operating the board and disbursing funds to community organizations for projects related to the development of the Kentucky Health

Information Network or testing health applications for the network. The fund may receive federal funds, state appropriations, gifts, grants, revolving funds, and any other public or private funds.

(2) Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the board. This fund shall be used solely for the purposes of the board as approved by the board. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

Section 5. KRS 194A.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

(4) The secretary shall consider the recommendations of the Kentucky Health Information Network Board created in Section 2 of this Part in promulgating administrative regulations to adopt:

(a) Data standards for communication and information exchange on the Kentucky Health Information Network that are compatible with any standards adopted by the federal Department for Health and Human Services or any other federal agency designated to oversee a national health information infrastructure;

(b) Standards for securing the confidentiality of protected patient information that are consistent with or more stringent than the Federal Health Insurance Portability and Accountability Act of 1996;

(c) Criteria for the disbursement of funds to community partners participating in the Kentucky Health Information Network; and

(d) Evaluation requirements for any projects funded through the Kentucky Health Information Network.

Section 6. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. These opportunities shall include, but not be limited to, *the implementation of transactions and activities associated with the Kentucky Health Information Network created in Section 3 of this Part and* the provision of telehealth by licensed health-care providers as provided in KRS Chapters 205, 211, 304.17A, 310, 311, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 334A, and 335.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown. *The Kentucky Health Information Network Board may use the information highway to implement the network, but shall not be limited to its use for communication services.*

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing

elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

(6) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which any entity that has been approved for economic development incentives under programs approved and administered by the Kentucky Economic Development Finance Authority may have access and use on the same terms as agencies of the Commonwealth of Kentucky.

(7) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which nonprofit organizations whose exclusive purpose is the delivery of services related to education, economic development, or cultural arts and humanities, may have access and use on the same terms as agencies of the Commonwealth of Kentucky. For the purposes of this section, "nonprofit organizations" means those organizations which have been granted tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code or those existing education based entities whose purpose is the delivery of services to state school systems, their employees, or their governing organizations and which have been granted tax-exempt status under Section 501(c)(6) of the United States Internal Revenue Code.

The Committee Substitute to **HB 396** is as follows:

HB 396, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2004, and ending June 30, 2005, and for the fiscal year beginning July 1, 2005, and ending June 30, 2006, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky, including the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

   a. Court operations and administration

	2004-05	2005-06
General Fund	156,513,000	164,912,600
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
Total	172,905,800	180,692,600

Funds are included to provide a one and one-half percent salary adjustment in fiscal year 2004-2005 and a three percent salary adjustment in fiscal year 2005-2006 for nonelected court personnel. Included are funds to provide a one and one-half percent salary adjustment in fiscal year 2004-2005 and a three percent salary adjustment in fiscal year 2005-2006 for justices and judges. Also included are funds for the salaries of the circuit clerks in fiscal year 2004-2005 and in fiscal year 2005-2006 as provided for in the Judicial Branch Budget Recommendation.

Included in the above General Fund appropriation is $2,198,000 in fiscal year 2004-2005 and $4,015,700 in fiscal year 2005-2006 to replace Federal Funds for existing drug court sites whose funding expires during the 2004-2006 fiscal biennium. Included in the above General Fund appropriation is $88,700 in fiscal year 2004-2005 and $109,600 in fiscal year 2005-2006 to replace Restricted Funds for Kenton Juvenile and Whitley Juvenile Drug Courts.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

Included in the above General Fund appropriation is $225,000 in fiscal year 2004-2005 and $225,000 in fiscal year 2005-2006 to support the Kentucky Legal Education Opportunities (KLEO) Program. Participants may be required to meet certain grade point average (GPA) conditions. Both phases of the Kentucky Legal Education Opportunities (KLEO) Program shall be operational for fiscal years 2004-2005 and 2005-2006.

Included in the above Restricted Funds appropriation is $7,339,300 in fiscal year 2004-2005 and $7,732,100 in fiscal year 2005-2006 to support deputy clerk positions, salary enhancements, and related initiatives in the circuit clerk's offices. These amounts include a one and one-half percent salary increment in fiscal year 2004-2005 and a three percent salary increment in fiscal year 2005-2006, and the employer's cost for benefits, including health insurance based on the September 1, 2003, Restricted

Funds personnel level. The Chief Justice of the Supreme Court shall ensure these funds are not utilized for any other purpose within the Judicial Branch budget or for any unfunded purposes not specified in this Act.

Included in the above General Fund appropriation is $482,000 in fiscal year 2004-2005 and $1,486,900 in fiscal year 2005-2006 to provide an Employee Health Insurance cost-of-living adjustment (COLA) for non-elected personnel and circuit clerks, which shall be added to the employee's base salary and employee's wages to help offset the rising cost of employees' health insurance premiums. The Chief Justice of the Supreme Court shall ensure these funds are not utilized for any other purpose within the Judicial Branch budget or for any unfunded purposes not specified in this Act.

b. Local Facilities Fund

	2004-05	2005-06
General Fund	59,442,800	59,994,600

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

The balance remaining at the end of fiscal year 2003-2004 totaling $2,500,000, shall not carry forward into fiscal year 2004-2005 and shall lapse to the credit of the General Fund Surplus account (KRS 48.700).

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2003-2004 shall not lapse and shall continue into fiscal year 2004-2005, and any unexpended balance remaining at the close of fiscal year 2004-2005 shall not lapse and shall be continued into fiscal year 2005-2006.

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

c. Local Facilities Use Allowance Contingency Fund

	2004-05	2005-06
General Fund	-0-	-0-

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2003-2004 shall not lapse and shall continue into fiscal year 2004-2005, and any unexpended balance remaining at the close of fiscal year 2004-2005 shall not lapse and shall be continued into fiscal year 2005-2006 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A.

TOTAL - COURT OF JUSTICE

	2004-05	2005-06
General Fund	215,955,800	224,907,200
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
TOTAL	232,348,600	240,687,200

2. Judicial Form Retirement System

	2004-05	2005-06
General Fund	2,299,800	2,303,300

General Fund amounts are included to provide for the 2003 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2004-05	2005-06
General Fund	218,255,600	227,210,500
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
TOTAL	234,648,400	242,990,500

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects
   a. Franklin County - Lease - Office Space
   b. Franklin County - Lease - Court of Appeals
   c. Jefferson County - Courts Parking Lease

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities

Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2004-05	2005-06
General Fund	218,255,600	227,210,500
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
TOTAL	234,648,400	242,990,500

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2004 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's Restricted Funds accounts or Federal Funds accounts at the close of the fiscal years ending June 30, 2004, and June 30, 2005, shall not lapse and shall continue into the next fiscal year.

7. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2004-2006 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2004 Regular Session of the General Assembly.

8. The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

9. Funding for the Kentucky Legal Education Opportunities (KLEO) Program has been continued during fiscal year 2004-2005 and fiscal year 2005-2006.

10. The Chief Justice shall not reallocate or reduce the salary, annual increment, or related benefits, including cost-of-living adjustments provided by the 2004 General Assembly to help offset the employee's share of health insurance premiums, for any Judicial Branch employee from that appropriated by the 2004 General Assembly for fiscal biennium 2004-2006 for any purposes not specified in this Act.

11. It is the intent of the General Assembly that the Court of Justice shall not eliminate or reduce the number of Administrative Office of the Courts, Circuit Clerks', District Court, or Circuit Court employees below the level employed on January 1, 2004. Furthermore, Restricted Funds support provided for deputy clerks' salary enhancements and initiatives shall not be reallocated within the Judicial Branch budget for any unfunded purposes not specified in this Act.

12. Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

13. By September 30 of each year, the Judicial Branch shall submit a report to the Interim Joint Committee on Appropriations and Revenue which details the amount of arrest fees assessed and remitted to each local law enforcement agency for the preceding fiscal year. This report shall be submitted in electronic format.

14. By September 30 of each year, the Judicial Branch shall submit a report detailing the amount and nature of uncollected court fees for the preceding fiscal year. This report shall be submitted in electronic format.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 387, 484, 514, 526, 562, 571, 596, 609, 635, HCR 187, 194, 203, HJR 10, 18, 126, 192, HR 189, HB 48, 140, 507, 550, 597, 598, SB 14, 118, 124, HB 320, 438, 395, 396, 397, HJR 103, 104,** and **105** have been posted for passage in the Regular Orders of the Day for March 9, 2004.

Orders of the Day

HB 477 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved that **HB 477** be passed.

On the roll call the vote was: **Yeas 83, Nays 9**. (See March 8, 2004, roll call on **HB 477** - Appendix.)

HB 477 was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 477** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 303, with Committee Substitutes attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute No. 2 to **HB 303**. Agreed.

Representative Cherry moved that **HB 303**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 8, 2004, roll call on **HB 303** - Appendix.)

HB 303, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 303**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved that **HCR 202** be adopted.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 8, 2004, roll call on **HCR 202** - Appendix.)

HCR 202 was adopted.

Representative Hall moved that the vote by which **HCR 202** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 297, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of Committee Amendment No. 1 to **HB 297**. Agreed.

Representative Webb moved that **HB 297**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 8, 2004, roll call on **HB 297** - Appendix.)

HB 297, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 297**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 10, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Couch moved the adoption of Committee Amendment No. 1 to **HB 10**. Agreed.

Representative Couch moved that **HB 10**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 8, 2004, roll call on **HB 10** - Appendix.)

HB 10, as amended, was passed and the title agreed to.

Representative Couch moved that the vote by which **HB 10**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 435 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 435** be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 8, 2004, roll call on **HB 435** - Appendix.)

HB 435 was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 435** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 436, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 436**. Agreed.

Representative Cherry moved that **HB 436**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 8, 2004, roll call on **HB 436** - Appendix.)

HB 436, by way of Committee Substitute, was passed.

Representative Cherry moved the adoption of Committee Amendment No. 2 Title to **HB 436**. Agreed.

Representative Cherry moved that the vote by which **HB 436**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 510, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Floor Amendment No. 2 to **HB 510**. Agreed.

Representative Riggs moved that **HB 510**, as amended, be passed.

On the roll call the vote was: **Yeas 86, Nays 2**. (See March 8, 2004, roll call on **HB 510** - Appendix.)

HB 510, as amended, was passed.

Representative Riggs moved the adoption of Floor Amendment No. 2 Title to **HB 510**. Agreed.

Representative Riggs moved that the vote by which **HB 510**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HB 569** and **SB 224**. Agreed.

Representative Adkins moved that **HB 659** be reassigned to the Committee on Judiciary. Agreed.

Representative Riggs moved the adoption of the following **HR 173**:

HR 173, A RESOLUTION urging Cinergy Corp. to reduce pollution emitted from its Gallagher Power Plant.

WHEREAS, Jefferson County and surrounding counties are affected by the pollution of industrial and utility sites, and by other sources of pollution; and

WHEREAS, in the coming years the Jefferson County metropolitan area is expected to be declared in non-attainment status for federal ozone standards and for federal 2.5 microns particulate matter standards and there will need to be reductions in nitrous oxides (NOx) and sulfur oxides (SOx) in order to move toward attainment; and

WHEREAS, the vehicle emissions testing program for Jefferson County has been ended by legislation of this General Assembly; and now, and in the coming years, pollution-reducing alternatives to vehicle emissions testing will have to be found in order to meet federal standards and to reduce levels of criteria and toxic air pollutants from industrial plants, utilities, and from other sources; and

WHEREAS, industrial plants and utilities in neighboring states contribute to air pollution in Kentucky; and

WHEREAS, the Cinergy Gallagher Plant located in Floyd County, Indiana, just across the Ohio River from Louisville, emits many more tons of Sulfur Dioxide (SO2) annually, and many more pounds of SO2 per British Thermal Unit (BTU), than any other utility plant in the area; and

WHEREAS, it is expected that Cinergy will not make significant reductions in NOx emissions at the Gallagher plant to comply with federal requirements to address long-range transport, known as the NOx State Implementation Plan (SIP) Call, but will instead likely install additional controls at other Cinergy plants to meet its system-wide average pounds of NOx per BTU required to address the long-range transport problem for the Northeast United States, and this approach will not benefit the Jefferson County Metropolitan area directly impacted by Cinergy Gallagher Plant NOx pollution; and

WHEREAS, residents of western Louisville have historically described frequent occurrences of dense, black smoke coming from the Gallagher Plant and the deposition of particles in their yards, and on their homes and cars, and the Gallagher Plant is permitted visible emissions to be a more lenient 40% compared with 20 % for LG&E; and

WHEREAS, the EPA has initiated federal new source review enforcement actions against electric utility plants for making modifications to coal-fired plants without receiving appropriate permits, and the Gallagher Plant is among those plants identified in this EPA initiative; and

WHEREAS, the mayor of the Louisville-Jefferson County Metro Government has discussed with Gallagher and Cinergy officials the above issues and concerns and the contribution to regional pollution reduction that the power plant should make;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Cinergy Corp., and Cinergy Gallagher Plant officials, are herein strongly urged by the House of Representatives of the General Assembly of the Commonwealth of Kentucky to reduce the pollution created by the Cinergy Gallagher Plant by installing the best available control technology for NOx, SOx, and particulate emissions, and to engage productively in discussions with officials of the Jefferson County metropolitan area, the local air-quality task force, and the Commonwealth as they develop plans to meet required federal air quality standards, and as they seek the benefits of cleaner air for the citizens of the Jefferson County metropolitan area and the Commonwealth.

Section 2. The Metro Louisville Air Pollution Control District Board and the Natural Resources and Environmental Protection Cabinet are strongly urged to evaluate available mechanisms, including administrative and judicial remedies under state and federal common and statutory law, and to consider intervention in any administrative or judicial actions brought by the US Environmental Protection Agency, in order to assure that the Gallagher Plant conforms to all statutory and common law obligations to operate in a manner protective of public health, safety, and welfare.

Section 3. The Clerk of the House is directed to send, by certified mail, a copy of this Resolution to the following:

James E. Rogers, Chairman, President and Chief Executive Officer
Cinergy Corp.
139 East Fourth Street
Cincinnati OH 45202;
and to,
Mayor Jerry Abramson
Louisville-Jefferson County Metro Government
527 West Jefferson Street
Louisville KY 40202-2814.

There being no objection, **HR 173** was adopted.

Representative Stein moved the adoption of the following **HR 230**:

HR 230, A RESOLUTION adjourning the House of Representatives in honor of Marie Abrams upon being named chairwoman of the Jewish Council for Public Affairs.

WHEREAS, it seems appropriate from time to time for this honorable body to recognize special Kentuckians who have enriched the lives of so many; and

WHEREAS, Marie Abrams graduated from the University of Louisville in 1959 with a B. A. degree in Social Science, and currently serves on the university's board of trustees; she is an esteemed member of the Louisville and Jefferson County community, and an active and involved citizen; she is an activist, in the best and truest sense of the word, and for many years, she has been a voice for human rights, for equal opportunity, and on behalf of those suffering from social injustice; and

WHEREAS, some of her many accolades include being the recipient of the Hannah G. Solomon Award, presented by the Louisville Section of the National Council of Jewish Women; the Lewis Cole Young Leadership Award, presented by the Jewish Community Federation; the Wilson W. Wyatt Sr. Award, presented by Leadership Kentucky; the National Conference Brotherhood Award, an Ottenheimer Award, and the Center for Women and Families, Women of Distinction Award; and

WHEREAS, the Jewish Council for Public Affairs serves as the voice of the organized Jewish community, and tries to build consensus between the different denominations of Judaism, including secular Jews as well as those in the Orthodox, Conservative, and Reform denominations; and the council frequently issues resolutions on topics affecting the Jewish people in the United States, Israel, and other countries; and

WHEREAS, Marie Abrams has been a board member of the Jewish Council for Public Affairs for 15 years, and she has served as its vice chairwoman for several years; and, during this time, she and other members have conferred with high ranking American and International officials, including Israeli prime ministers, journalists, and prominent Palestinians; and

WHEREAS, in February 2004, Marie Abrams was elected to serve a two-year term as chairwoman of the Jewish Council for Public Affairs; her experience and expertise in Jewish affairs, working with many civic and community groups, and as a longtime legislative aide to state Senator David Karem, has prepared her for this well-deserved prestigious position; and during her term as chairwoman of the Jewish Council for Public Affairs, emphasis will be placed on general social problems, and on making people aware of the seriousness of the poverty we are facing in the United States, especially the tragedy of children living in poverty;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed proud and honored to recognize and congratulate Marie Abrams upon the occasion of being named chairwoman of the Jewish Council for Public Affairs. We applaud her for the distinction she has brought to the Commonwealth of Kentucky, and wish her continued success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Marie Abrams.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Marie Abrams, 2829 Avenue of the Woods, Louisville, Kentucky 40241.

There being no objection, **HR 230** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 231, by Representative Edmonds: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Michael Lynn Moreland.

HR 232, by Representative Riggs: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Harry Redmon Lair Jr.

HR 233, by Representative Webb: A RESOLUTION adjourning the House Representatives in loving memory and honor of Frank P. Rice Sr.

Report of Committees (Continued)

The Committee on Economic Development reported **HB 700**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 700, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the reinvestment and development of existing labor-intensive businesses within the Commonwealth, and that it is in the best interests of the Commonwealth to induce the reinvestment of existing businesses within the Commonwealth in order to advance the public purpose of relieving unemployment by preserving jobs that may no longer exist if not for inducements, and to create an economic environment where existing businesses shall be encouraged to expand their presence within the Commonwealth by repairing, maintaining, and investing in buildings, improvements, machinery, and equipment of all types necessary for those businesses to produce goods and services within the Commonwealth.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context clearly indicates otherwise:

(1) "Business" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, association, or any other entity registered to do business within the Commonwealth;

(2) "Capital expenditure" means any cost, including fabrication, transportation, and installation costs, paid or accrued in the taxable year and of a type, under the Internal Revenue Code of 1986, that is eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes;

(3) "Full-time employee" means an individual who is employed for consideration for at least thirty-five and one-half (35.5) hours a week for at least six (6) months of the calendar year, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment;

(4) "Purchase" means all purchases defined under KRS 139.090;

(5) "Qualified employee" means a full-time employee who is a resident of the Commonwealth, is subject to the state income tax imposed by KRS 141.020, and is employed by a business; and

(6) "Sales and use taxes" means all applicable sales and use taxes paid on all purchases by the business to the Commonwealth, or to any third party, including but not limited to construction contractors, suppliers, and vendors, as provided for under KRS Chapter 139.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other exemption provided for under Sections 1 to 3 of this Act, any business shall be entitled to a refund of all sales and use tax liability, as set forth in KRS Chapter 139, incurred by the business for the year in which the business becomes qualified, and each subsequent year thereafter in which the business meets the requirements set forth in subsection (3) of this section.

(2) For a business to become a qualified business, the business shall apply for a certificate of eligibility from the Cabinet for Economic Development.

(3) A business shall be entitled to a certificate of eligibility provided that it annually meets the following eligibility requirements:

(a) A business shall have capital expenditures within the Commonwealth of at least one hundred thousand dollars ($100,000);

(b) A business shall employ a minimum of ten (10) qualified employees; and

(c) A business shall pay an average wage rate of at least two hundred percent (200%) of the federal minimum wage, as reported by the United States Department of Labor, to all qualified employees employed by the business.

(4) For a business to receive a certificate of eligibility, each business shall annually file for an application for a certificate of eligibility with the Cabinet for Economic Development.

(5) The application for a certificate of eligibility shall set forth the number of employees employed by the business, the average wage rate for all employees employed by the business, the amount of capital expenditures invested by the business in the Commonwealth for the year in which the certificate of eligibility is granted, and the amount of sales and use taxes paid under the provisions of KRS Chapter 139 on capital expenditures.

(6) A business shall file for a certificate of eligibility with the Cabinet for Economic Development by no later than January 31 of each calendar year for sales and use taxes paid on capital expenditures made during the prior calendar year. The Cabinet for Economic Development shall approve or deny an application for a certificate for eligibility within sixty (60) days from the date the application is received.

(7) Eligible expenditures subject to sales and use taxes on capital expenditures shall not exceed fifteen million dollars ($15,000,000) annually.

(8) A qualified business may file for a refund from the Revenue Cabinet, as provided for under this section, on which the application for a certificate of eligibility is approved by the Cabinet for Economic Development or sixty (60) days after the application for a certificate of eligibility is received, whichever is earlier. In no event shall a business seek a refund of sales and use taxes outside the statute of limitations as provided for under KRS 134.470.

(9) In the event a business seeks a refund of sales and use taxes on capital expenditures before the Cabinet for Economic Development approves an application for a certificate of eligibility, and it is subsequently determined that the application for the certificate of eligibility is denied, the business shall be required to repay to the Revenue Cabinet all refunds of sales and use taxes obtained by the business under this section. The business shall repay any refunded sales and use tax amounts within thirty (30) days from the date the application for a certificate of eligibility is denied by the Cabinet for Economic Development.

(10) Motor vehicles not considered commercial vehicles pursuant to KRS 186.050, purchased and used solely for business purposes, shall be exempt from the motor vehicle usage tax subject to the limitations provided for under KRS 154.45-090(5) and KRS 154.45-090(6).

(11) The Cabinet for Economic Development and the Revenue Cabinet may promulgate administrative regulations, pursuant to the provisions of KRS Chapter 13A, necessary or convenient for the administration of Sections 1 to 3 of this Act, which shall include but not be limited to the development and filing requirements of forms and documents to facilitate the refund of sales and use taxes paid as provided for under subsection (1) of this section.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 3 of this Act shall be known as the Kentucky Enterprise Zone Reform and Job Creation Act.

Section 5. An eligible business may apply for a refund on sales and use taxes paid on capital expenditures made on or after January 1, 2004.

The Committee Substitute to **HB 700** is as follows:

HB 700, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the reinvestment and development of existing labor-intensive businesses within the Commonwealth, and that it is in the best interests of the Commonwealth to induce the reinvestment of existing businesses within the Commonwealth in order to advance the public purpose of relieving unemployment by preserving jobs that may no longer exist if not for inducements, and to create an economic environment where existing businesses shall be encouraged to expand their presence within the Commonwealth by repairing, maintaining, and investing in research and development, buildings, improvements, machinery, technology, and equipment of all types necessary for those businesses to produce goods and services within the Commonwealth.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context clearly indicates otherwise:

(1) "Business" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, association, or any other entity registered to do business within the Commonwealth.

(2) "Capital expenditure" means any cost, including fabrication, transportation, and installation costs, paid or accrued in the taxable year and of a type, under the Internal Revenue Code of 1986, that is eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, except that "capital expenditure" shall not include any cost associated with a lodging facility, unless the facility is:

(a) A full-service lodging facility having not less than two hundred (200) guest rooms; and

(b) Integral to attracting tourism or conventions to the local area, as determined by the Cabinet for Economic Development.

(3) "Full-time employee" means an individual who is employed for consideration for at least thirty-five and one-half (35.5) hours a week for at least six (6) months of the calendar year, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(4) "Purchase" means all purchases defined under KRS 139.090.

(5) "Sales and use taxes" means all applicable sales and use taxes paid on all purchases by the business to the Commonwealth, or to any third party, including but not limited to construction contractors, suppliers, and vendors, as provided for under KRS Chapter 139.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other exemption provided for under Sections 1 to 3 of this Act, any business shall be entitled to a refund of all sales and use tax liability, as set forth in KRS Chapter 139, incurred by the business for the year in which the business becomes qualified, and each subsequent year thereafter in which the business meets the requirements set forth in subsection (3) of this section; however, expenditures associated with activities governed by Section 226 of the Constitution of Kentucky or by KRS Chapter 230 shall not be eligible for a refund under this section.

(2) Notwithstanding subsection (1) of this section, sales and use tax liability on office equipment, office furnishings, and office supplies shall not be eligible for the refund under subsection (1) of this section.

(3) For a business to become a qualified business, the business shall apply for a certificate of eligibility from the Cabinet for Economic Development.

(4) A business shall be entitled to a certificate of eligibility provided that it annually meets the following eligibility requirements:

(a) A business shall have capital expenditures within the Commonwealth of at least one hundred thousand dollars ($100,000);

(b) A business shall employ a minimum of ten (10) full-time employees who are residents of the Commonwealth, subject to the state income tax imposed by KRS 141.020, and employed by the qualified business; and

(c) 1. A business shall compensate a minimum of ninety percent (90%) of its full-time employees with base hourly wages equal to either:

a. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

b. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

2. If the base hourly wage calculated in subparagraph 1.a. or 1.b. of this paragraph is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage.

3. In addition to the applicable base hourly wage calculated in subparagraph 1. or 2. of this paragraph, the business shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the business does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the business may meet the requirements of this subparagraph if it provides ninety percent (90%) of its full-time employees total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

(5) For a business to receive a certificate of eligibility, each business shall annually file for an application for a certificate of eligibility with the Cabinet for Economic Development.

(6) The application for a certificate of eligibility shall set forth the number of employees employed by the business, the average wage rate for all employees employed by the business, the amount of capital expenditures invested by the business in the Commonwealth for the calendar year for which the certificate of eligibility is requested, and the amount of sales and use taxes paid pursuant to KRS Chapter 139 for which the qualified business may be eligible to receive a refund under this section for the calendar year for which the certificate of eligibility is requested.

(7) A business shall file for a certificate of eligibility with the Cabinet for Economic Development by no later than January

31 of each calendar year for sales and use taxes paid on eligible expenditures made during the prior calendar year. The Cabinet for Economic Development shall approve or deny an application for a certificate for eligibility within sixty (60) days from the date the application is received.

(8) Eligible expenditures subject to sales and use taxes by a business shall not exceed fifteen million dollars ($15,000,000) annually.

(9) A qualified business may file for a refund from the Revenue Cabinet, as provided for under this section, on the date which the application for a certificate of eligibility is approved by the Cabinet for Economic Development or sixty (60) days after the application for a certificate of eligibility is received, whichever is earlier. In no event shall a business seek a refund of sales and use taxes outside the statute of limitations as provided for under KRS 139.620.

(10) In the event a business seeks a refund of sales and use taxes on eligible expenditures before the Cabinet for Economic Development approves an application for a certificate of eligibility, and it is subsequently determined that the application for the certificate of eligibility is denied, the business shall be required to repay to the Revenue Cabinet all refunds of sales and use taxes obtained by the business under this section. The business shall repay any refunded sales and use tax amounts within thirty (30) days from the date the application for a certificate of eligibility is denied by the Cabinet for Economic Development.

(11) Motor vehicles considered commercial vehicles pursuant to KRS 186.050 and licensed at more than twenty-six thousand (26,000) pounds, purchased by a qualified business and used solely for business purposes, shall be exempt from the motor vehicle usage tax subject to the limitations provided for under KRS 154.45-090(5) and KRS 154.45-090(6).

(12) The total tax refund available for commitment by the authority, for each fiscal year, shall not exceed twenty million dollars ($20,000,000) for businesses operating within areas designated by KRS 154.45-050, and twenty million dollars ($20,000,000) for businesses that are not within areas designated by KRS 154.45-050.

(13) The Cabinet for Economic Development and the Revenue Cabinet may promulgate administrative regulations, pursuant to the provisions of KRS Chapter 13A, necessary or convenient for the administration of Sections 1 to 3 of this Act, which shall include but not be limited to the development and filing requirements of forms and documents to facilitate the refund of sales and use taxes paid as provided for under subsection (1) of this section.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 3 of this Act shall be known as the Kentucky Enterprise Zone Reform and Job Preservation Act.

Section 5. An eligible business may apply for a refund on sales and use taxes paid on capital expenditures made on or after July 1, 2004.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 670**

Local Government: **HB 629, 668, 630**

Licensing and Occupations: **SB 143, 148**

Health and Welfare: **SB 16, 40, HB 685, 688, 691, 684, 667, 695, SB 188, 179**

Appropriations and Revenue: **HB 569**

Natural Resources: **SB 224**

Judiciary: **HB 504**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Licensing and Occupations: **SB 156**

Motions, Petitions, and Communications (Continued)

Representative P. Clark moved that Floor Amendment No. 1 to **HB 493** be withdrawn. Agreed.

Representative Nelson moved that **HB 474** be withdrawn. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Baugh moved that he be recorded as voting "yea" on **HCR 202**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 10**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "yea" on **HB 510**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HB 286** and **406**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 10** and **HCR 17**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 510**. Agreed.

Representative Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Belcher moved that she be recorded as voting "yea" on **HCR 17**. Agreed.

Representative J. Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Thompson moved that he be recorded as voting "yea" on **HB 436**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that his vote be changed from "abstain" to "yea" on **HB 303**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that his vote be changed from "nay" to "yea" on **HB 495**. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 395**, by Representative Nelson:

HB 395, Learning and Results Services

Part I

On page 45, line 24, delete "593,939,600" and "608,658,800" and insert "588,339,600" and "603,058,800" in lieu thereof; and

On page 45, line 27, delete "1,122,788,600" and "1,137,571,500" and insert "1,117,188,600" and "1,131,971,500" in lieu thereof; and

On page 48 delete lines 25 through 27 in their entirety; and

On page 49 delete lines 1 through 2 in their entirety; and

On page 49, line 3, delete "**(11)**" and insert "**(10)**" in lieu thereof.

On page 49, line 7, delete "**(12)**" and insert "**(11)**" in lieu thereof.

On page 49, line 10, delete "**(13)**" and insert "**(12)**" in lieu thereof.

On page 49, line 14, delete "**(14)**" and insert "**(13)**" in lieu thereof.

On page 49, line 24, delete "**(15)**" and insert "**(14)**" in lieu thereof.

On page 50, after line 1, insert the following: "**(15)** Notwithstanding KRS 45A.690, 157.197, 158.6452, 158.6455, 158.647, 158.6472, 160.350, or 158.782, no funds are provided in the above appropriations for the operational costs of the Highly Skilled Educator Program in fiscal year 2004-2005 and fiscal year 2005-2006."; and

Adjust subsequent subtotals and totals accordingly; and

Teachers' Retirement System

Part I

On page 58, line 24, delete "106,790,800" and "120,830,500" and insert "112,390,800" and "126,430,500" in lieu thereof; and

On page 58, line 26, delete "114,938,700" and "129,444,000" and insert "120,538,700" and "135,044,000" in lieu thereof; and

Adjust subsequent subtotals and totals accordingly.

SUMMARY: Reduces the appropriation of the Highly Skilled Educator Program in its entirety in fiscal year 2004-2005 and fiscal year 2005-2006. Appropriates those funds to the Kentucky Teachers' Retirement System in fiscal year 2004-2005 and fiscal year 2005-2006.

Floor Amendment No. 1 to **HJR 18**, by Representative Haydon:

HJR 18, On page 1, in the last WHEREAS clause, by inserting "and" after the semicolon; and

At the top of page 2, by inserting the following:

"WHEREAS, Christopher Leo Hite, was born on July 30, 1953 in Bardstown, Kentucky; and

WHEREAS, Christopher Leo Hite, a 1972 graduate of Bardstown High school, embarked on a 35 year career with the Rose Construction Company; and

WHEREAS, in that capacity, Christopher Hite helped build many roads in the Nelson County area, such as the newly constructed improvements on Kentucky Route 245; and

WHEREAS, on February 9, 2004, tragedy stuck when Christopher Hite was killed while at work on an excavation job; and

WHEREAS, Christopher Leo Hite leaves behind a loving wife, the former Kathie Hardesty, and three sons, Chris Jr., Rob, and Andrew; and

WHEREAS, Christopher Leo Hite, is mourned by his grieving family and his many friends throughout Nelson County;"; and

On page 2, after line 12, by inserting the following:

"Section 4. The Transportation Cabinet shall name the section of Kentucky Route 245 currently under construction for Kentucky Route 1430 to Kentucky Route 332 the "Christopher Leo Hite Memorial Highway" and shall erect appropriate signs identifying the route upon completion of the road.".

Floor Amendment No. 2 Title to **HJR 18**, by Representative Haydon:

HJR 18, By amending the title to read: "A JOINT RESOLUTION naming various roads."

Floor Amendment No. 4 to the Committee Substitute to **HB 395**, by Representative Farmer:

HB 395, Capital Projects Budget Provisions for Part II

On page 132, after line 7, by inserting the following:

"(7) **Temporary Suspension of Prevailing Wage Law for School Construction**: Notwithstanding the provisions of KRS Chapter 337, school districts and cities acting under the provisions of KRS 162.150 shall be exempted from complying with the state prevailing wage law for any school construction contracts awarded after the effective date of this Act but before June 30, 2006.".

Floor Amendment No. 5 to the Committee Substitute to **HB 395**, by Representative Farmer:

HB 395, Capital Projects Budget Provisions for Part II

On page 132, after line 7, by inserting the following:

"(7) **Temporary Suspension of Prevailing Wage Law for School Construction**: Notwithstanding the provisions of KRS Chapter 337, school districts and cities acting under the provisions of KRS 162.150 shall be exempted from complying with the state prevailing wage law for any school construction contracts awarded after the effective date of this Act but before June 30, 2006.

(8) **Temporary Suspension of Prevailing Wage Law for State-funded Construction**: Notwithstanding the provisions of KRS Chapter 337, a public authority as defined by KRS 337.010(3)(d) shall be exempted from complying with the state prevailing wage law for any construction contracts awarded after the effective date of this Act but before June 30, 2006, if the construction is part of a capital project authorized by the General Assembly in any branch budget bill or if any part of the construction is funded from state funds.".

Floor Amendment No. 6 to **HB 395**, by Representative Farmer:

HB 395, Capital Projects Budget Provisions for Part II

On page 100, after line 10, by inserting the following:

"(8) **Temporary Suspension of Prevailing Wage Law for School Construction**: Notwithstanding the provisions of KRS Chapter 337, school districts and cities acting under the provisions of KRS 162.150 shall be exempted from complying with the state prevailing wage law for any school construction contracts awarded after the effective date of this Act but before June 30, 2006.

(9) **Temporary Suspension of Prevailing Wage Law for State-funded Construction**: Notwithstanding the provisions of KRS Chapter 337, a public authority as defined by KRS 337.010(3)(d) shall be exempted from complying with the state prevailing wage law for any construction contracts awarded after the effective date of this Act but before June 30, 2006, if the construction is part of a capital project authorized by the General Assembly in any branch budget bill or if any part of the construction is funded from state funds.".

Floor Amendment No. 3 to the Committee Substitute to **HB 395**, by Representative J. Lee:

HB 395, SUMMARY: Amend the Supports for Community Living slots to specify that the House appropriates an additional $1,416,400 in General Fund support and $3,261,100 in Federal Funds for an additional 100 slots in FY 2004-05, and an additional $2,500,000 in General Fund support, $2,508,000 in Restricted Funds and $11,465,600 in Federal Funds for an additional 300 slots in FY2005-06.

Medicaid Benefits

Part I

On page 87, line 5, delete "1,000,000" and insert "1,416,400" and delete "2,302,500" and insert "3,261,100", on line 6, delete "75" and insert "100", on line 7, after "support," insert "$2,508,000 in Restricted Funds" and delete "5,723,700" and insert "11,465,700" and on line 8, delete "150" and insert "300".

Floor Amendment No. 2 to **HB 410**, by Representative Draud:

HB 410, On page 13, after line 2, insert the following:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) (a) When a person who is registered as a sex offender who is required to register for his or her lifetime and listed on the Kentucky State Police Web site pursuant to KRS 17.580 moves into a county, the sheriff of that county shall notify, either by mail, or by direct delivery, each residence of persons:

1. Living within the same block as the sex offender; and

2. Living within one quarter (1/4) mile of the sex offender in rural areas where streets are not divided into blocks or the use of blocks as a notification tool is impractical.

(b) The sheriff may choose to notify persons living in any area of the county outside of that specified in subparagraphs 1. and 2. of paragraph (a) of this subsection that a sex offender has moved into the county without any liability for the notification.

(c) As used in paragraph (a) of this subsection, "block" means both sides of the street between the nearest intersecting streets closest to the street on which the sex offender lives.

The sheriff may choose to notify the public of any registered sex offender who is required to register for a period of ten (10) years who moves into the county but shall not be required to do so.

(2) In lieu of or in addition to the methods of notification specified in subsection (1) of this section, the sheriff may:

(a) Utilize a toll-free telephone call-in line where the public can find out the information specified in this section;

(b) Utilize posters or similar notices posted at selected locations in the area specified in subsection (1) of this section;

(c) Utilize advertisement in any local newspaper or other publication distributed in the area specified in subsection (1) of this section; or

(d) Utilize public service announcements on radio or television stations which cover the area specified in subsection (1) of this section.

(3) To defray the costs of notification the sheriff shall charge the registered sex offender a fee of fifty dollars ($50). When a registered sex offender is released or moves into a county the offender shall present himself or herself at the sheriff's office and pay the fee. The failure of a registered sex offender to comply with the provisions of this subsection within thirty (30) business days of moving into a county shall be a Class A misdemeanor.

(4) Notification shall also be made to each school and to each youth-serving organization in the county that has notified

the sheriff, in writing, that it desires to be notified.

(5) The information provided shall include:

(a) The name of the sex offender, plus any known aliases, as found on the Kentucky State Police Web site;

(b) The address of the sex offender, as found on the Kentucky State Police Web site;

(c) The sexual offenses for which the sex offender was convicted, as found on the Kentucky State Police Web site; and

(d) The dates of conviction for each sex offense committed by the sex offender, as found on the Kentucky State Police Web site.

(6) The information provided shall be limited to that found on the Kentucky State Police Web site and if any item of information is missing from the Kentucky State Police Web site, the sheriff shall not be responsible for its noninclusion in the information provided to the public.

(7) Each sheriff shall maintain a list of the information required in subsections (1) to (3) of this section and shall make it available to any person upon request, whether the request is in writing, by telephone, or other means of communication, or in person.

(8) No sheriff, or employee of the sheriff, shall be civilly or criminally liable for any information that is provided to the public that complies with the provisions of this section.

(9) The Department of Corrections shall notify the Kentucky Sheriff's Association of the release of each registered sex offender thirty (30) days prior to the release date of the sex offender. The Kentucky Sheriff's Association shall immediately notify the sheriff in the county where the offender shall reside. If the release of the sex offender is the result of parole, shock probation, or other event that does not allow for notice to be issued thirty (30) days prior to the release, then the notice shall issue as soon as practicable. The notification shall include the information that will be provided to the Kentucky State Police for use on the Kentucky State Police Web site."

Floor Amendment No. 4 to **HB 413**, by Representative Nunn:

HB 413, On page 5, after line 12 by inserting the following:

"Section 4. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state, if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) *1. Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency shall be disposed of in any of the following manners:*

a. Firearms and ammunition may be retained for official use;

b. Firearms and ammunition may be exchanged with a federally licensed firearms dealer, importer, or manufacturer for firearms, ammunition, or equipment; or

c. Firearms and ammunition may be transferred to the Kentucky State Police for disposition as provided by KRS 16.220.

2. The transfer or exchange shall occur not more than one hundred eighty (180) days after the

abandonment of the firearm or ammunition to the law enforcement agency or not more than one hundred eighty (180) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police or exchanged with a federally licensed firearms dealer, importer, or manufacturer not more than one hundred eighty (180) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.

[~~Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.~~]

(d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its

continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs."; and

Renumbering subsequent sections accordingly.

Floor Amendment No. 5 Title to **HB 413**, by Representative Nunn:

HB 413, Amend the title to read as follows: "AN Act relating law enforcement agencies, making an appropriation therefor, and declaring an emergency."

Floor Amendment No. 2 to **HB 156**, by Representative Nunn:

HB 156, On page 2, after line 5 by inserting the following:

"Section 2. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state, if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) *1. Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency shall be disposed of in any of the following manners:*

a. Firearms and ammunition may be retained for official use;

b. Firearms and ammunition may be exchanged with a federally licensed firearms dealer, importer, or manufacturer for firearms, ammunition, or equipment; or

c. Firearms and ammunition may be transferred to the Kentucky State Police for disposition as provided by KRS 16.220.

2. The transfer or exchange shall occur not more than one hundred eighty (180) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than one hundred eighty (180) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police or exchanged with a federally licensed firearms dealer, importer, or manufacturer not more than one hundred eighty (180) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or *otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.*

~~[Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.]~~

(d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or

claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs."

Floor Amendment No. 3 Title to **HB 156**, by Representative Nunn:

HB 156, Amend title to read as follows: "AN Act relating to local law enforcement departments."

Floor Amendment No. 7 to **HB 395**, by Representative Farmer:

HB 395, Capital Projects Budget Provisions for Part II

On page 100, after line 10, by inserting the following:

"(8) **Temporary Suspension of Prevailing Wage Law for School Construction**: Notwithstanding the provisions of KRS Chapter 337, school districts and cities acting under the provisions of KRS 162.150 shall be exempted from complying with the state prevailing wage law for any school construction contracts awarded after the effective date of this Act but before June 30, 2006.".

Floor Amendment No. 2 to **HB 570**, by Representative Nunn:

HB 570, On page 9, after line 8 by inserting the following:

"Section 11. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state, if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) *1. Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency shall be disposed of in any of the following manners:*

a. Firearms and ammunition may be retained for official use;

b. Firearms and ammunition may be exchanged with a federally licensed firearms dealer, importer, or manufacturer for firearms, ammunition, or equipment; or

c. Firearms and ammunition may be transferred to the Kentucky State Police for disposition as provided by KRS 16.220.

2. The transfer or exchange shall occur not more than one hundred eighty (180) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than one hundred eighty (180) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police or exchanged with a federally licensed firearms dealer, importer, or manufacturer not more than one hundred eighty (180) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall *make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.*

[~~Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.~~]

(d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of

time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs."

Floor Amendment No. 3 Title to **HB 570**, by Representative Nunn:

. **HB 570,** Amend the title to read as follows: "AN Act relating to local law enforcement agencies."

Floor Amendment No. 3 to **HB 537**, by Representative B. Smith:

HB 537, On page 6, line 6, by placing a closing bracket after "~~appraisal.~~"; and

On page 6, line 7, by removing the strike throughs from "~~(4)~~"; and

On page 6, line 7, before first occurrence of the word "~~Following~~", by inserting:

"*Nothing contained in this section shall affect any person's right to bring a civil action for damages, including punitive and compensatory damages, or other appropriate relief.*"; and

On page 6, line 7, by placing an opening bracket before the first occurrence of the word "~~Following~~".

Floor Amendment No. 8 to **HB 395**, by Representative Farmer:

HB 395, Capital Projects Budget Provisions for Part II

On page 100, after line 10, by inserting the following:

"(8) **Temporary Suspension of Prevailing Wage Law for State-funded Construction**: Notwithstanding the provisions of KRS Chapter 337, a public authority as defined by KRS 337.010(3)(d) shall be exempted from complying with the state prevailing wage law for any construction contracts awarded after the effective date of this Act but before June 30, 2006, if the construction is part of a capital project authorized by the General Assembly in any branch budget bill or if any part of the construction is funded from state funds.".

Floor Amendment No. 9 to the Committee Substitute to **HB 395**, by Representative Farmer:

HB 395, Capital Projects Budget Provisions for Part II

On page 132, after line 7, by inserting the following:

"(7) **Temporary Suspension of Prevailing Wage Law for State-funded Construction**: Notwithstanding the provisions of KRS Chapter 337, a public authority as defined by KRS 337.010(3)(d) shall be exempted from complying with the state prevailing wage law for any construction contracts awarded after the effective date of this Act but before June 30, 2006, if the construction is part of a capital project authorized by the General Assembly in any branch budget bill or if any part of the construction is funded from state funds.".

Floor Amendment No. 4 to the Committee Substitute to **HB 336**, by Representative Thomas:

HB 336, On page 1, after the enacting clause, to page 32, to the end of line 5, by deleting all the intervening text, and by inserting in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS 258.095 to 258.365 IS CREATED TO READ AS FOLLOWS:

Gunshot shall not be used as a routine method of euthanasia in animal shelter settings. This prohibition shall not apply in animal shelter settings if an animal presents a threat to the health or safety of anyone lawfully on the premises of the shelter. The prohibition against gunshot shall also not apply to peace officers or animal control officers outside animal shelter situations if an animal:

(1) Cannot be seized;

(2) Presents a threat to the health or safety of the general public; or

(3) Has an injury or physical condition which causes the animal to suffer.

Section 2. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and KRS 258.990(3) and (4), unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family, six (6) months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;

(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog;

(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances;[~~ and~~]

(13) "Designated license facility" means any person, facility, or business designated by resolution of the fiscal court to collect license fees under KRS 258.135***; and***

(14) "Euthanasia" means the act of putting an animal to death in a humane manner by methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia, subject to the requirements provided by Section 1 of this Act.

Section 3. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training dog wardens and animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county:

(a) Employs a dog warden or an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) Maintains a dog pound or animal shelter, or contracts with an adjoining county, to provide services that:

1. Segregate male and female animals ***by species*** in runs and holding areas;

2. Provide separate runs or holding areas for ill or injured animals***. An ill or injured animal shall be treated with proper veterinary care or euthanized***;

3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit or scratched a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;

4. Provide holding areas with protection from the weather, including heated quarters during cold weather***. Holding areas shall be free of debris or standing water, shall provide adequate lighting, ventilation, and sanitary conditions to promote a safe, healthy environment, and shall provide adequate space to allow for normal movement, including standing to full height, sitting, turning, and lying down in a natural position without coming in contact with the top or sides of the enclosure or another animal***;

5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors

made of an impervious material~~[or a minimum of three (3) inches of gravel]~~;

6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;

7. Employ euthanasia methods *specified as acceptable for that species*~~[recommended]~~ by the *most recent report of the* American Veterinary Medical Association *Panel on Euthanasia*;~~[and]~~

8. Provide *potable, uncontaminated water to every animal at all times, and palatable, uncontaminated food daily; and*

9. Maintain a record on each animal impounded. Records shall be maintained for a period of two (2) years and shall include:

  a. Date impounded;

  b. Location found or picked up;

  c. Sex of animal and spay or neuter status, if known;

  d. Breed or description, and color; and

  e. Date reclaimed, adopted, or euthanized~~[other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner]~~.

(4) Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of dog wardens or other personnel. Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

(6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of this section.

Section 4. KRS 258.215 is amended to read as follows:

(1) Peace officers, dog wardens, or animal control officers shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, dog warden, or animal control officer, after diligent effort to do so, should fail to seize the dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any dog which an officer, dog warden, or animal control officer seizes shall be impounded for a period of five (5) or seven (7) days, to be determined by the local animal shelter. If the dog is not claimed by the owner or sold in accordance with other provisions of this chapter, then the dog may be *euthanized*~~[destroyed in some humane manner]~~. Any animal shelter, public or private, which takes in stray dogs and does not have regular hours for public access, shall post semimonthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, the period that impounded dogs shall be held, and a contact number.

(2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, the owner or handler shall not be deemed to be in violation of the provisions of this section as a result of the dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.".

Floor Amendment No. 1 to the Committee Substitute to **HB 580**, by Representative A. Smith:

HB 580, On page 5 insert the following after line 8:

"Section 5. This Act shall be known as the Molly Mosley Act of 2004."

Floor Amendment No. 10 to the Committee Substitute **HB 395**, by Representative Deweese:

HB 395, Executive Policy and Management

Part I

On page 44 delete lines 19 through 24 in their entirety; and

On page 44, line 25, delete "**(5)**" and insert "**(4)**" in lieu thereof; and

Education Cabinet - General Administration and Program Support

Part I

On page 55 delete lines 12 through 17 in their entirety; and

Council on Postsecondary Education

Part I

On page 108 delete lines 4 through 9 in their entirety; and

On page 108, line 10, delete "**(11)**" and insert "**(10)**" in lieu thereof.

SUMMARY: Deletes language restricting the Secretary of Education's authority over the Kentucky Department of Education and the Council of Postsecondary Education during fiscal biennium 2004-2006.

Floor Amendment No. 11 to the Committee Substitute to **HB 395**, by Representative Nunn:

HB 395, Part XIII

On page 311, after line 8 but before line 9 by inserting the following:

"Section 3. KRS 141.066 is amended to read as follows:

There shall be allowed as a nonrefundable credit against the tax imposed under KRS 141.020 an amount equal to twenty percent (20%) of the federal earned income credit allowed under Section 32 of the Internal Revenue Code.[~~(1) A resident individual whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020, and shall be taken in the order established by KRS 141.0205.~~

~~(2) For a husband and wife filing jointly, the "low income" tax credit shall be computed on the basis of their joint adjusted gross income and shall be deductible from their joint tax liability. For a husband and wife living together, whether filing separate returns or separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed adjusted gross income of less than zero shall be treated as zero, and shall be deductible from their combined tax liability.~~

~~(3) The "low income" tax credit shall be computed as follows:~~

~~AMOUNT OF ADJUSTED GROSS INCOME~~	~~PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT~~
~~not over $5,000~~	~~100%~~
~~over $ 5,000 but not over $10,000~~	~~50%~~
~~over $10,000 but not over $15,000~~	~~25%~~
~~over $15,000 but not over $20,000~~	~~15%~~
~~over $20,000 but not over $25,000~~	~~5%~~
~~over $25,000~~	~~0~~]

Section 4. KRS 141.180 is amended to read as follows:

(1) ***(a)*** Every individual, except as otherwise provided in this section, having for the taxable year ***individual gross income which exceeds the federal poverty guidelines as most currently published in the Federal Register shall make to the cabinet a return stating specifically the items which he or she claims as deductions and tax credits allowed by this chapter.***

(b) Every married couple living together, except as otherwise provided in this section, having for the taxable year combined gross income which exceeds the federal poverty guidelines as most currently published in the Federal Register shall make a return stating specifically the items which they claim[~~an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the cabinet a return stating specifically the items which he claims~~] as deductions and tax credits allowed by this chapter.

(2)[~~Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.~~

~~(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).~~

~~(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.~~

~~(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.~~

~~(6)~~] A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(3)[~~(7)~~] Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(4)[~~(8)~~] Any relief granted pursuant to paragraphs (a) and (b) of subsection *(3)*[~~(7)~~] of this section shall not result in a tax overpayment to the spouse requesting relief.

(5)[~~(9)~~] Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

SECTION 5. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of Sections 5 to 14 of this Part, "wholesale sale" or "sale at wholesale" means a sale made for the purpose of resale in the regular course of business of smokeless tobacco, cigars, loose tobacco, or pipe tobacco, except as provided in subsection (3) of this section.

(2) For the privilege of making wholesale sales or sales at wholesale of smokeless tobacco, cigars, loose tobacco, and pipe tobacco, a tax is hereby imposed upon all wholesalers and distributors of smokeless tobacco, cigars, loose tobacco, and pipe tobacco at the rate of seven percent (7%) of the gross receipts of any wholesaler or distributor derived from sales at wholesale or wholesale sales made within the Commonwealth, except as provided in subsection (3) of this section. Wholesalers of smokeless tobacco, cigars, loose tobacco, and pipe tobacco shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the smokeless tobacco, cigars, loose tobacco, or pipe tobacco is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with administrative regulations promulgated by the Revenue Cabinet.

(3) Gross receipts from sales at wholesale or wholesale sales do not include the sales made between wholesalers or between distributors.

SECTION 6. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Every wholesaler or distributor liable for the tax levied under Section 5 of this Part shall, before July 1, 2004, obtain a certificate of registration by filing with the Revenue Cabinet an application containing information that the cabinet prescribes. Every application shall be signed by the owner, an executive officer, or some person specifically authorized to sign the application.

(2) Whenever any wholesaler or distributor fails to comply with any provision of Sections 5 to 14 of this Part or any administrative regulation promulgated by the cabinet, the cabinet may suspend or revoke the certificate of registration held by the wholesaler or distributor.

(3) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin operation of a wholesaler or distributor operating without a certificate of registration. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the business entity.

SECTION 7. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Returns for the tax levied under Section 5 of this Part shall be signed by the duly authorized agent of the business entity.

(2) Returns required under this section shall contain information that the Revenue Cabinet deems necessary for the proper administration of Sections 5 to 14 of this Part.

(3) The wholesaler or distributor required to file the return provided under this section shall deliver the return together with a remittance of the amount of the tax due to the cabinet.

(4) For purposes of facilitating the administration, payment, or collection of the taxes levied under Section 5 of this Part, the cabinet may permit or require returns or tax payments for periods other than monthly. When permitted, returns for other than monthly periods shall be filed and paid in the manner prescribed by the cabinet.

(5) No wholesaler or distributor shall change from the reporting system required under this section, or permitted in writing

by the cabinet, without the written authorization of the cabinet.

(6) A tax return is required for each reporting period even though there may be no tax due.

SECTION 8. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet may, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any wholesaler or distributor granted an extension and paying the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 9. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return is received, the Revenue Cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the wholesaler or distributor, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in subsection (4) of this section and except that in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time. A notice of the assessment shall be mailed to the business entity. The time provided in this section may be extended by agreement between the taxpayer and the cabinet.

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on the last day.

(3) When a wholesaler or distributor is discontinued, a determination may be made within the periods specified in subsection (1) of this section as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in Section 7 of this Part.

(4) Notwithstanding the four (4) year time limitation of subsection (1) of this section, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the wholesaler or distributor, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.

SECTION 10. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

SECTION 11. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability the cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 12. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Every wholesaler or distributor liable for the reporting or payment of the taxes levied by Section 5 of this Part shall keep such records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every wholesaler or distributor shall keep these records for not less than four (4) years from the making of records unless the cabinet in writing sooner authorizes their destruction.

SECTION 13. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) The taxes paid pursuant to the provisions of Section 5 of this Part shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the Revenue Cabinet and shall contain such information as the cabinet may require.

SECTION 14. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

Any wholesaler or distributor that violates any of the provisions of Sections 5 to 14 of this Part shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

Section 15. KRS 138.140 is amended to read as follows:

(1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents ($0.03) on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.

(2) A surtax shall be paid on the sale of cigarettes within the state at a proportionate rate of forty cents ($0.40) on each twenty (20) cigarettes. This tax shall be paid in the manner provided in subsection (8) of Section 16 of this Part.

Section 16. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima facie evidence of payment of tax. Unless such

stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The cabinet shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. All cigarette tax evidence prescribed by the cabinet shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence. The cabinet shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) Units of cigarette tax evidence ***levied under subsection (1) of Section 15 of this Part*** shall be sold at their face value, but the cabinet shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value. The cabinet shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the cabinet. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the cabinet for credit or refund for any reason satisfactory to the cabinet.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the cabinet of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the cabinet. The written notice may also be directed to the secretary of revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the cabinet, and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

(8) The tax levied under subsection (2) of Section 15 of this Part shall be paid at the same time as the tax is paid for the purchase of stamps under subsection (2) of this section.

Section 17. KRS 248.652 is amended to read as follows:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Agricultural Diversification and Development Fund" to which shall be credited any increase in the cigarette excise tax levied under ***subsection (1) of Section 15 of this Part***[~~KRS 138.140~~] subsequent to July 15, 1998; gifts; bequests; endowments; grants from the United States government, its agencies and instrumentalities; any funds from the tobacco settlement agreement or related federal legislation for tobacco farmers or tobacco-dependent communities specifically appropriated to this fund by the General Assembly from the fund created in KRS 248.654; and funds received from any other sources, public or private. The fund shall be administered by the Agricultural Diversification and Development Council created under KRS 248.650.

Section 18. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by ***subsection (1) of Section 15 of this Part***[~~KRS 138.140~~] and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 19. KRS 438.337 is amended to read as follows:

(1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.

(2) The Department of Alcoholic Beverage Control shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by ***subsection (1) of Section 15 of this Part***[~~KRS 138.140~~] to be deposited in a trust and agency

account created in the State Treasury, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.

(3) The Department of Alcoholic Beverage Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.

(4) The Department of Alcoholic Beverage Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors.

Section 20. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

(d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10)[~~"Average wholesale price" shall mean:~~

~~(a) The weighted average per gallon wholesale tank-wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;~~

~~(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;~~

~~(11)~~] "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(11)[~~(12)~~] "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(12)[~~(13)~~] "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(13)[~~(14)~~] "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and

(14)[~~(15)~~] "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

Section 21. KRS 138.220 is amended to read as follows:

(1) ***(a) A highway user motor fuel tax shall be imposed at the rate of fifteen cents ($0.15)***[~~An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a~~] per gallon[~~basis shall be paid~~] on all gasoline ***received in this state;*** and

(b) A highway user motor fuel tax shall be imposed at the rate of twelve cents ($0.12) per gallon on all special fuel received in this state.

Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax[~~ herein imposed~~] shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all ***taxes imposed***[~~such tax~~] may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing ***in this section***[~~herein contained~~] shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been[~~ once~~] taxed under the provisions of this section, unless ***the***[~~such~~] tax was refunded or credited.

(2) In addition to the ***highway user motor fuel***[~~excise~~] tax provided in subsection (1) of this section, there is[~~ hereby~~] levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. ***Effective July 1, 2004, the supplemental highway user motor fuel tax rate shall be four cents ($0.04) per gallon on gasoline and special fuels. Effective July 1, 2005, the supplemental highway user motor fuel tax rate shall be eight cents ($0.08) per gallon on gasoline and special fuels***[~~Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (3) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (3) of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than five cents ($0.05) on gasoline or two cents ($0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsection (1) of this section shall constitute the tax on motor fuels imposed by KRS 138.220~~].

(3) ***On or before April 1, 2006, and on or before April 1 of each succeeding year, the cabinet shall recompute and publish the rate for the taxes imposed under subsections (1) and (2) of this section. The new rate per gallon shall be calculated by multiplying the rate in effect at the time of the calculation by the amount obtained by dividing the annual average United States consumer price index for all urban consumers, United States city average, as determined by the United States Department of Labor, for the previous year by the annual average for the year before the previous year. The rate calculated under this subsection shall be rounded to the nearest one-tenth of one cent ($0.001) and shall be effective on the July 1 after the date of the calculation. However, the tax rate established by this subsection for gasoline and special fuels shall not exceed the average tax rate for gasoline and special fuels levied by Illinois, Indiana, Ohio, Tennessee, Virginia, and West Virginia on the effective date of the rate adjustment***[~~Effective with the calendar quarter beginning July 1, 1980, the cabinet shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.~~

~~(4) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The cabinet shall promulgate such rules and regulations to properly administer this provision~~].

Section 22. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, excluding charter bus operators registered pursuant to KRS Chapter 281, shall pay a tax at the rate levied in KRS 138.220(1) and (2) on the amount of gasoline and special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, ***the motor carrier shall pay a highway user motor fuel surtax at the rate of two and two-tenths cents ($0.022) per gallon on the amount of gasoline used while operating on public highways in this state and four and two-tenths cents ($0.042) per gallon on the amount of special fuels used while operating on public highways in***[~~he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1) of this section, on the amount of gasoline and at the rate of four and seven-tenths percent (4.7%) on the amount of special fuels used in operations on public highways of~~] this state.

(3) Every motor carrier shall pay for every motor vehicle operated upon the public highways of this state with a combined licensed weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds a weight distance tax computed at the rate of two and eighty-five hundredths cents ($0.0285) per mile.

(4) Those taxes levied under this section shall be computed and paid as provided in KRS 138.685 and 138.690.

Section 23. KRS 234.320 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1)*(a)* and (2) is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the cabinet on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent (1%) of the tax shall be made to the liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

SECTION 24. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

As used in KRS 136.070 to KRS 136.100:

(1) "Capital" means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys, member's capital accounts, or partner's capital accounts. Capital does not include capital accounts directly related to the provision of professional services. "Capital" shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(2) "Compensation" means wages, salaries, commissions, or any other form or remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes;

(3) "Doing business" means:

(a) Organized under the laws of this state or having a commercial domicile in this state;

(b) Owning or leasing property in this state;

(c) Having payroll in this state;

(d) Deriving income from or attributable to sources within the state; or

(e) Directing activities at Kentucky customers for the purpose of selling them goods or services;

(4) "Entity" means any corporation, any limited liability company or registered limited liability partnership that elects to be treated as a corporation under federal income tax law, and any single-member limited liability company that is not treated as an entity separate from its corporate member under federal income tax law. "Entity" does not include any corporation organized under the provisions of KRS Chapter 274;

(5) "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 136.070(3)(c);.

(6) "Professional service" has the same meaning as in KRS 274.005;

(7) "Property" means real and tangible personal property owned or leased; and

(8) "Sales" means all gross receipts of the entity.

Section 25. KRS 136.070 is amended to read as follows:

(1) *(a)* Every *entity doing business in this state* [~~corporation organized under the laws of this state , every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state,~~] *except entities specifically listed in paragraph (b) of this subsection shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.*

(b) *The following entities shall not be required to pay the tax imposed by paragraph (a) of this subsection:* [~~except~~]

1. *F*inancial institutions as defined in KRS 136.500*;*[~~,~~]

2. *S*avings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only*;*[~~,~~]

3. *O*pen-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940*;*[~~,~~]

4. *P*roduction credit associations*;*[~~,~~]

5. *I*nsurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters*;*[~~,~~]

6. *P*ublic service companies subject to taxation under KRS 136.120*;*[~~,~~]

7. *Entities* [~~those corporations~~] exempted by Section 501 of the Internal Revenue Code*;*[~~,~~]

8. *A*ny property or facility which has been certified as an alcohol production facility as defined in KRS 247.910*; and*[~~,~~]

9. *A*ny property or facility which has been certified as a fluidized bed energy production facility as defined in

KRS 211.390[~~, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section~~].

(2) (a) [~~The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;~~

~~(b)~~] "Capital employed," in the case of ***entities doing business***[~~corporations having property or payroll~~] only in this state, means "capital" as defined ***in subsection (1) of Section 24 of this Part*** [~~above~~];

(b)[~~(c)~~]"Capital employed," in the case of ***entities doing business*** [~~corporations having property or payroll~~] both within and without this state means "capital" as defined ***in subsection (1) of Section 24 of this Part*** [~~above~~] and as apportioned under subsection (3) of this section;

[~~(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.~~]

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor***, representing twenty-five percent (25%) of the fraction,*** plus the payroll factor***, representing twenty-five percent (25%) of the fraction***, plus the sales factor***, representing fifty percent (50%) of the fraction***, and the denominator of which is ***four (4), reduced by the number of factors, if any, having no denominator*** [~~three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used~~];

(b) The property factor is a fraction, the numerator of which is the average value of the ***entity's*** [~~taxpayer's~~] real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the ***entity's*** [~~taxpayer's~~] real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the ***entity*** [~~taxpayer~~] is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, ***the*** [~~such~~] property shall be valued by the cabinet under regulations promulgated by the cabinet. Property rented by the ***entity*** [~~taxpayer~~] is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the ***entity*** [~~taxpayer~~] less any annual rental rate received by the ***entity*** [~~taxpayer~~] from subrentals, provided that ***the rentals*** [~~such rental~~] and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the cabinet may determine and apply ***a*** [~~such~~] rental rate ***that*** [~~as~~] will reasonably reflect the value of the property rented by the ***entity*** [~~taxpayer~~]; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the ***entity's*** [~~taxpayer's~~] property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the ***entity*** [~~taxpayer~~] for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the ***entity*** [~~taxpayer~~] in this state during the tax period, and the denominator of which is the total sales of the ***entity*** [~~taxpayer~~] everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the ***entity's*** [~~taxpayer's~~] capital in this state, the ***entity*** [~~taxpayer~~] may petition for or the cabinet may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the ***entity's*** [~~taxpayer's~~] capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the ***entity's*** [~~taxpayer's~~] capital.

(5) No ***entity*** [~~corporation~~] required to pay an annual license tax under this section shall pay less than ***one hundred dollars ($100)***[~~thirty~~] ~~dollars ($30)~~.

(6) Every ***entity*** [~~corporation~~] with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of capital employed in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 26. KRS 136.071 is amended to read as follows:

(1) ***As used in this section:***

(a) "Apportioned book value" in the case of an owned entity doing business both within and without the state means the value of the ownership interest as shown on the financial statements prepared for book purposes as of the last day of the calendar or fiscal year, as apportioned to this state using an apportionment factor for the owned entity determined pursuant to subsection (3) of Section 25 of this Part;

(b) "Book value" in the case of an owned entity doing business only in this state means the value of the ownership interest as shown on the financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(c) "Owned entity" means an entity of which more than fifty percent (50%) of the ownership interest is owned by a qualified entity;

(d) "Ownership interest" means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, evidences of indebtedness, and members or owners equity accounts in any qualified entity; and

(e) "Qualified entity" means an entity that is provided legal protection based upon its organizational structure and the laws of this state, and includes corporations, limited liability companies, limited liability partnerships, and other similar entities.

(2) Notwithstanding any other provisions of this chapter, ***a qualified entity*** [~~a corporation~~] ***that*** [~~whose commercial domicile is in this state and~~] holds directly or indirectly ***an ownership interest***[~~stock, or securities~~] in other ***qualified entities subject to and paying the tax imposed by Section 25 of this Part, or specifically exempted from the tax imposed by Section 25 of this Part,*** [~~corporations~~] equal to or greater than fifty percent (50%) of its total assets may[~~, at the option of the taxpayer, be considered as one (1) corporation for purposes of determining and apportioning total "capital," or~~] compute its "capital" under KRS 136.070(2) as follows:

(a) Determine the ***qualified entity's*** [~~corporation's~~] total capital as provided in KRS 136.070(2).

(b) Deduct from the amount determined in subsection (a) of this section, the ***book value or apportioned*** book value***, as the case may be,*** of its investment in the ***ownership interest***[~~stock, and securities~~] of any ***owned entity subject to and paying the tax imposed by Section 25 of this Part, or specifically exempted from the tax imposed by Section 25 of this Part*** [~~corporation in which it owns more than fifty percent (50%) of the outstanding stock of such corporation~~].

(3)[~~(2)~~] For purposes of determining the ratio of ***ownership interest*** [~~stock and securities~~] to total assets, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year. [~~The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year~~].

Section 27. KRS 136.090 is amended to read as follows:

(1) ***Entities*** [~~Corporations~~] liable ***for*** [~~to~~] taxation under KRS 136.070 shall file with the Revenue Cabinet each year, on forms prepared by the cabinet, a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant

treasurer, ***managing member, partner,*** or chief accounting officer. This report shall give the name of the ***entity*** [~~corporation~~]; the name of the state or government under the laws of which it is ***organized*** [~~incorporated~~]; the date of ***organization*** [~~incorporation~~]; the place of its principal office in and out of this state; the name and address of its president and secretary***, or members and partners as applicable***; the name and address of its authorized agent or attorney upon whom process may be executed in this state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged.

(2) The report shall also give the total value of all the property owned and used by the ***entity*** [~~corporation~~]; the value of the property owned and used by ***the entity*** [~~it~~] in this state; the aggregate amount of business transacted by ***the entity*** [~~it~~] during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the cabinet requires.

Section 28. KRS 136.100 is amended to read as follows:

(1) If the ***entity*** [~~corporation~~] operates on a calendar year basis, the reports required under KRS 136.090 shall be filed on or before April 15 in each year. If the ***entity*** [~~corporation~~] operates on a fiscal year basis, the reports shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. [~~Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the Revenue Cabinet on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.~~]

(2) ***An entity*** [~~A corporation~~] may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the cabinet. If ***an entity*** [~~a corporation~~] so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period.

(3) In any case where two (2) or more ***entities*** [~~corporations~~] merge, consolidate or otherwise combine into a single ***entity*** [~~corporation~~] after the close of the taxable year, but before the beginning of the succeeding taxable year, all factors used to determine the [~~corporation~~] license tax assessment shall be computed on the basis of the consolidated accounting records of such ***entities*** [~~corporations~~].

Section 29. KRS 139.195 is amended to read as follows:

As used in KRS 139.105, 139.200, and 139.775:

(1) "Air-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls.

(3) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(4) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, prepaid calling services, postpaid calling services, private communications services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile telecommunications services, and Internet telephony involving telephone service in which messages originate or terminate over a public switched telephone network but are transmitted, in part, using transmission control protocol, Internet protocol, or other similar means***, cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996***.

(b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:

1. Information services;
2. Internet access;

3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;

4. The sale of directory and other advertising and listing services;

5. The sale of one-way paging services;***and***

6. Billing and collection services provided to another communications service provider~~[;] and~~

~~7. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996~~.

(5) "Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in KRS 139.105. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.

(6) "Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.

(7) "End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.

(8) "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).

(9) "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).

(10) "Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.

(11) "Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communications service that would be a prepaid service except that it is not exclusively a communications service.

(12) "Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(13) "Private communications service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.

(14) (a) "Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(c) If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.

Section 30. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth

of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding the ***assessment of new property as defined in KRS 132.010(8) and the*** assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding the ***revenue resulting from the new property as defined in KRS 132.010(8) and the*** revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section, the rate shall be adjusted in the succeeding year so that the cumulative total of

each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 31. Sections 3, 4, 24 to 28, and 30 of this Part shall apply to tax years beginning after December 31, 2003. Section 29 is effective July 1, 2004".

Floor Amendment No. 12 to the Committee Substitute to **HB 395**, by Representative Damron:

HB 395, Public Health

Part I

On page 96, after line 6, insert:

"(3) Abstinence Education: **The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: 95 percent shall be used for community-based grants to institute abstinence education programs; five percent shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign."**

Floor Amendment No. 13 to the Committee Substitute to **HB 395**, by Representative Damron:

HB 395, Part III

On page 279, after line 23, insert the following:

"**54. Computation of Capital for Certain Farm Credit System Institutions:** Notwithstanding any provision of KRS Chapter 136 to the contrary, any Agricultural Credit Association chartered by the Farm Credit Administration shall compute its "capital" or its "capital attributable to Kentucky" under KRS 136.290(2) or 136.310(2) by deducting the book value of its investment in any other institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or 136.310 or that is exempt from state taxation by federal statute. "Book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar of fiscal year.".

Floor Amendment No. 5 to the Committee Substitute to **HB 336**, by Representative Thomas:

HB 336, On page 1, line 5, after "*of*", by deleting "*an animal control officer*", and by inserting in lieu thereof "*anyone lawfully on the premises of the shelter*"; and

On page 2, lines 7 through 10, by deleting all the text and by inserting in lieu thereof:

"*(7) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:*

(a) A city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances; or

(b) An entity that has contracted with a city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to

cruelty, mistreatment, or torture of animals, and local animal control ordinances;"; and

On page 3, after line 16, by inserting:

"***(4) Any person with feral cats on his premises shall make a reasonable effort to capture or vaccinate the cats.***"; and

On page 5, line 2, after "***be***", by inserting "***vaccinated***", and by bracketing and striking through "revaccinated"; and

On page 5, line 5, by deleting "***revaccination***", and by inserting in lieu thereof "***vaccination***"; and

On page 8, lines 6 through 9, by removing all brackets and strikethroughs from those lines and by deleting all new language from those lines, and by then bracketing and striking through all the language on lines 6 through 9; and

On page 8, at the beginning of line 6, by inserting:

"***(8) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:***

(a) A city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances; or

(b) An entity that has contracted with a city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances;"; and

On page 8, line 22, by deleting "***and***"; and

On page 8, line 25, after "***animal***", by inserting: "***;***

(15) "Livestock" means poultry; ratites; and cervine, bovine, ovine, porcine, caprine, or equine animals that are privately owned and raised in a confined area for breeding stock, food, fiber, or other products; and

(16) "Poultry" means chickens, ducks, turkeys, or other domestic fowl"; and

On page 8, line 27, after "of", through page 9, line 1, by bracketing and striking through "making recommendations to the commissioner relating to"; and

On page 9, line 4, after "." by inserting "***The Animal Control Advisory Board shall promulgate administrative regulations to carry out the provisions of this section.***"; and

On page 10, line 4, by bracketing and striking through the line in its entirety; and

On page 11, line 1, after "Employs", by inserting "***, appoints,***", and, after "officer", by inserting "***, or contracts with an entity that employs, appoints, or contracts with an animal control officer,***"; and

On page 14, line 14, after "employ", by inserting "***, appoint,***", and after "***officer***", by inserting "***, or shall contract with an entity that employs, appoints, or contracts with an animal control officer,***"; and

On page 14, line 21, after "***within***", by deleting "***two (2)***", and by inserting in lieu thereof, "***three (3)***"; and

On page 15, line 16, after "employ", by inserting "***, appoint,***", and, after "officers", by inserting "***, or may contract with an entity that employs, appoints, or contracts with animal control officers,***"; and

On page 15, line 24, by removing the brackets and strikethroughs from "[~~uniform~~]", and, after "citations", by inserting "***, local citations, or local notices***", and by bracketing and striking through "only", and, after "chapter", by inserting "***, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals,***; and

On page 17, line 9, by deleting "***dog, cat, or ferret***", and by inserting in lieu thereof, "***animal***"; and

On page 17, line 10, by deleting "***dog, cat, or ferret***", and by inserting in lieu thereof, "***animal***"; and

On page 17, beginning on line 11 and ending on line 12, by deleting "***dog, cat, or ferret***", and by inserting in lieu thereof, "***animal***"; and

On page 24, lines 7 to 9, by removing all the brackets and strikethroughs; and

On page 24, at the beginning of line 9, by inserting "***Animal Control and Care Fund***", and by bracketing and striking through "livestock fund"; and

On page 29, line 26, to page 30, through line 23, by deleting all text and the section in its entirety, and inserting in lieu thereof:

"Section 29. KRS 436.605 is amended to read as follows:

(1) ***Animal control officers,***[~~Dog wardens~~] and officers and agents of humane societies ***who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services*** shall have the powers of peace officers***, except for the power of arrest,*** for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty***,*** [~~and~~]mistreatment***, or torture*** of animals, provided they possess the qualifications required under KRS 61.300.

(2) ***When*** any peace officer, ***animal control officer,*** or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth ***who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal***

sheltering or animal control services makes an[~~, who shall make~~] oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty***, mistreatment, or torture of***[~~ to~~] animals is being committed in a building, barn***,*** or other enclosure, the[~~ said~~] judge shall [~~thereupon on proof of demand having been made, ~~]issue a search warrant directed to ***the***[~~any~~] peace officer, ***animal control officer,*** or [~~any ~~]officer or agent of ***the***[~~any~~] society or association for the prevention of cruelty to animals [~~duly incorporated under the laws of this Commonwealth or other peace officer ~~]to search the[~~ said~~] premises***.***[~~, and~~] If [~~upon the search ~~]***a peace officer finds***[~~it is found~~] that an act of cruelty***, mistreatment, or torture of***[~~ to~~] animals is being perpetrated***, the offender or offenders shall be immediately arrested by the peace officer and brought before the***[~~ to forthwith arrest such offender or offenders and bring him or them before the said~~] court for trial***. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.***"; and

On page 30, line 27, after "***employed***", by inserting "***, appointed,***".

Floor Amendment No. 6 to the Committee Substitute to **HB 336**, by Representative Thomas:

HB 336, On page 1, after the enacting clause, to page 32, to the end of line 5, by deleting all the intervening text, and by inserting in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS 258.095 to 258.365 IS CREATED TO READ AS FOLLOWS:

Gunshot shall not be used as a routine method of euthanasia in animal shelter settings. This prohibition shall not apply in animal shelter settings if an animal presents a threat to the health or safety of anyone lawfully on the premises of the shelter. The prohibition against gunshot shall also not apply to peace officers or animal control officers outside animal shelter situations if an animal:

(1) Cannot be seized;

(2) Presents a threat to the health or safety of the general public; or

(3) Has an injury or physical condition which causes the animal to suffer.

Section 2. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and KRS 258.990(3) and (4), unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family, six (6) months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;

(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog;

(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances;[~~ and~~]

(13) "Designated license facility" means any person, facility, or business designated by resolution of the fiscal court to collect license fees under KRS 258.135***; and***

(14) "Euthanasia" means the act of putting an animal to death in a humane manner by methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia, subject to the requirements provided by Section 1 of this Act.

Section 3. KRS 258.215 is amended to read as follows:

(1) Peace officers, dog wardens, or animal control officers shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, dog warden, or animal control

officer, after diligent effort to do so, should fail to seize the dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any dog which an officer, dog warden, or animal control officer seizes shall be impounded for a period of five (5) or seven (7) days, to be determined by the local animal shelter. If the dog is not claimed by the owner or sold in accordance with other provisions of this chapter, then the dog may be ***euthanized***~~[destroyed in some humane manner]~~. Any animal shelter, public or private, which takes in stray dogs and does not have regular hours for public access, shall post semimonthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, the period that impounded dogs shall be held, and a contact number.

(2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, the owner or handler shall not be deemed to be in violation of the provisions of this section as a result of the dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.".

Floor Amendment No. 14 to the Committee Substitute to **HB 395**, by Representative Nunn:

HB 395, Public Health

Part I

On page 96, insert the following between lines 6 and 7:

"**(6) Medicaid Services in Health Departments:** The Department for Public Health shall assure that sufficient funds are transferred from the above General Fund appropriations to the Department for Medicaid Services to assure full funding of the cost incurred for preventive health services to Medicaid recipients provided under contracts with local health departments. The covered preventive health services are chronic disease services, communicable disease services, family planning services, maternity services, pediatric services, and early and periodic screening, diagnosis, and treatment services. The funding level, including the federal Medicaid match shall not be less than $23,000,000 in fiscal year 2004-2005 and $23,000,000 in fiscal year 2005-2006.".

Floor Amendment No. 15 to the Committee Substitute to **HB 395**, by Representative Webb:

HB 395, General Provisions

Part III

On page 279, after line 23, insert the following:

" **54. Execution of a Minor:** No moneys appropriated in this Act shall be expended on seeking the death penalty for a person whose age was 16 or 17 at the time of the commission of the offense, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, or expend otherwise available funds to seek the death penalty for a person whose age was 16 or 17 at the time of the commission of the offense."

Floor Amendment No. 16 to **HB 395**, by Representative Webb:

HB 395, General Provisions

Part III

On page 164, after line 3, insert the following:

" **33. Execution of a Minor:** No moneys appropriated in this Act shall be expended on seeking the death penalty for a person whose age was 16 or 17 at the time of the commission of the offense, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, or expend otherwise available funds to seek the death penalty for a person whose age was 16 or 17 at the time of the commission of the offense."

Floor Amendment No. 17 to the Committee Substitute to **HB 395**, by Representative Burch:

HB 395, General Provisions

Part III

On page 279, after line 23, insert the following:

" **54. Execution of a Person Sentenced to Death:** No moneys appropriated in this Act shall be expended on the execution of a person sentenced to death, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, to carry out an execution. The Governor is encouraged to delay any executions already scheduled until after the expiration of this Act and the Governor is further encouraged to not schedule any new execution until after the expiration of this Act."

Floor Amendment No. 18 to **HB 395**, by Representative Burch:

HB 395, General Provisions

Part III

On page 164, after line 3, insert the following:

" **33. Execution of a Person Sentenced to Death:** No moneys appropriated in this Act shall be expended on the execution of a person sentenced to death, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, to carry out an execution. The Governor is encouraged to delay any executions already scheduled until after the expiration of this Act and the Governor is further encouraged to not schedule any new execution until after the expiration of this Act."

Floor Amendment No. 19 to the Committee Substitute to **HB 395**, by Representative Fischer:

HB 395, Part III

On page 279, after line 23, but before line 24, by inserting the following:

"54. Notwithstanding KRS 141.010(9), "Gross income" includes any amount in excess of $250,000 from the proceeds of a judgment for non-economic or punitive damages against a health care provider, as defined in KRS 214.450, in a civil action for medical malpractice in the provision of health care. Notwithstanding and in lieu of the tax levied under KRS 141.020, for taxable years beginning after December 31, 2003, the proceeds of a judgment included in gross income under this section shall be taxed at the tax rate of 90 percent. Proceeds from the tax levied under this section are appropriated to the Kentucky Health Care Providers Mutual Insurance Authority created in 2004 Regular Session House Bill 450.".

Floor Amendment No. 20 to **HB 395**, by Representative Fischer:

HB 395, Part III

On page 164, after line 3, but before line 4, by inserting the following:

"33. Notwithstanding KRS 141.010(9), "Gross income" includes any amount in excess of $250,000 from the proceeds of a judgment for non-economic or punitive damages against a health care provider, as defined in KRS 214.450, in a civil action for medical malpractice in the provision of health care. Notwithstanding and in lieu of the tax levied under KRS 141.020, for taxable years beginning after December 31, 2003, the proceeds of a judgment included in gross income under this section shall be taxed at the tax rate of 90 percent. Proceeds from the tax levied under this section are appropriated to the Kentucky Health Care Providers Mutual Insurance Authority created in 2004 Regular Session House Bill 450.".

Floor Amendment No. 21 to the Committee Substitute to **HB 395**, by Representative Fischer:

HB 395, Part III

On page 279, after line 23 and before line 24, by inserting the following:

"**54. Prohibition Against Funding for Purposes of Cloning:** No moneys appropriated in this Act to any agency or subdivision of the Commonwealth shall be expended for the purposes of human cloning or the experimentation on human embryos that results in the destruction of those human embryos. Human cloning shall include but not be limited to human asexual reproduction accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism, at any stage of development, that is genetically identical to an existing or previously existing human organism. An amount equal to the expenditures of any agency or subdivision of the Commonwealth that violates this provision shall be returned by that agency to the credit of the General Fund."

SUMMARY: Prohibits any agency or subdivision of the Commonwealth from expending any state funds for the purposes of human cloning or research resulting in the destruction of human embryos.

Floor Amendment No. 22 to **HB 395**, by Representative Fischer:

HB 395, Part III

On page 164, after line 3 and before line 4, by inserting the following:

"**33. Prohibition Against Funding for Purposes of Cloning:** No moneys appropriated in this Act to any agency or subdivision of the Commonwealth shall be expended for the purposes of human cloning or the experimentation on human embryos that results in the destruction of those human embryos. Human cloning shall include but not be limited to human asexual reproduction accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism, at any stage of development, that is genetically identical to an existing or previously existing human organism. An amount equal to the expenditures of any agency or subdivision of the Commonwealth that violates this provision shall be returned by that agency to the credit of the General Fund."

Floor Amendment No. 23 to the Committee Substitute to **HB 395**, by Representative Riner:

HB 395, Part I

On page 45, line 24, delete "593,939600" and insert "597,939,600" in lieu thereof, and delete "608,658,800" and insert "612,658,800" in thereof;

On page 45, line 27, delete "1,122,788,600" and insert "126,788,600" in lieu thereof, and delete "1,137,571,500" and insert "1,141,571,500" in lieu thereof;

On page 50, after line 1, insert the following:

"**(16) Family Resource and Youth Services Center:** Included in the above General Fund appropriation is $53,530,300 in fiscal year 2004-2005 and "$53,530,300 in fiscal year 2005-2006 for family resource and youth services centers. Of this amount, $1,750,000 in fiscal year 2004-2005 and $1,750,000 in fiscal year 2005-2006 will be from proceeds of the cigarette surtax levied under Section 3 of Part XII of this Act.

(17) Extended School Services: Included in the above General Fund appropriation is $34,109,500 in fiscal year 2004-2005 and $34,109,500 in fiscal year 2005-2006 for extended school services. Of this amount, $2,250,000 in fiscal year 2004-2005 and $2,250,000 in fiscal year 2005-2006 will be from proceeds of the cigarette surtax levied under Section 3 of part XII of this Act.";

Adjust subsequent subtotals and totals accordingly;

On page 54, after line 8, insert the following:

"**(19) Additional SEEK Funding:** Any remaining revenue from the cigarette surtax levied under Section 3 of Part XII of this Act after the Extended School Services Program and Family Resource and Youth Services Centers have received their allotment shall be distributed to local school districts through the SEEK Program in fiscal year 2004-2005 and fiscal year 2005-2006."; and

Part XII

On page 311, after line 8, insert the following:

"Section 3. KRS 138.140 is amended to read as follows:

(1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents ($0.03) on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.

(2) A surtax shall be paid on the sale of cigarettes within the state at a proportionate rate of seventeen cents ($0.17) on each twenty (20) cigarettes. This tax shall be paid in the manner provided in subsection (8) of Section 4 of this Part.

Section 4. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The cabinet shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. All cigarette tax evidence prescribed by the cabinet shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or

other mark on the cigarette tax evidence. The cabinet shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) Units of cigarette tax evidence ***levied under subsection (1) of Section 3 of this Part*** shall be sold at their face value, but the cabinet shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value. The cabinet shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the cabinet. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the cabinet for credit or refund for any reason satisfactory to the cabinet.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the cabinet of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the cabinet. The written notice may also be directed to the secretary of revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the cabinet, and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

(8) The tax levied under subsection (2) of Section 3 of this Part shall be paid at the same time as the tax is paid for the purchase of stamps under subsection (2) of this section.

Section 5. KRS 248.652 is amended to read as follows:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Agricultural Diversification and Development Fund" to which shall be credited any increase in the cigarette excise tax levied under ***subsection (1) of Section 3 of this Part***[~~KRS 138.140~~] subsequent to July 15, 1998; gifts; bequests; endowments; grants from the United States government, its agencies and instrumentalities; any funds from the tobacco settlement agreement or related federal legislation for tobacco farmers or tobacco-dependent communities specifically appropriated to this fund by the General Assembly from the fund created in KRS 248.654; and funds received from any other sources, public or private. The fund shall be administered by the Agricultural Diversification and Development Council created under KRS 248.650.

Section 6. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by ***subsection (1) of Section 3 of this Part***[~~KRS 138.140~~] and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 7. KRS 438.337 is amended to read as follows:

(1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.

(2) The Department of Alcoholic Beverage Control shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by ***subsection (1) of Section 3 of this Part***[~~KRS 138.140~~] to be deposited in a trust and agency account created in the State Treasury, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.

(3) The Department of Alcoholic Beverage Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.

(4) The Department of Alcoholic Beverage Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors.

Section 8. Sections 3 to 7 of this Part take effect July 1, 2004.".

Floor Amendment No. 24 to the Committee Substitute to **HB 395**, by Representative Cornett:

HB 395, Local Government Economic Development Fund

Part II

Letcher County

On page 214, line 3, after "001." insert "Letcher County Fiscal Court-" and delete "For Recreation," and insert "Recreational Park"; and

On page 214, delete lines 4 and 5; and

On page 214, line 6, delete "20,000" and "20,000" and insert "25,000" and "25,000"; and

On page 214, line 9, delete "90,000" and insert "100,000"; and

On page 214, line 11, after "Foundation" delete "-Operating and Equipment"; and

On page 214, line 12, delete "70,000" and insert "75,000"; and

On page 214, line 16, delete "150,000" and insert "200,000"; and

On page 214, line 21 delete "220,000" and insert "240,000"; and

On page 214, line 25, delete "20,000" and "20,000" and insert "25,000" and $25,000; and

On page 214, delete lines 26 and 27; and

On page 215, delete lines 1 and 2; and

On page 215, line 5, delete "30,000" and "30,000", and insert "35,000" and "35,000"; and

On page 215, line 16, delete "50,000" and insert "25,000"; and

On page 215, line 20, delete "20,000" and "20,000", and insert "25,000" and "25,000"; and

On page 215, line 24, delete "100,000" and insert "120,000"; and

On page 216, line 1, delete "45,000" and "45,000" and insert "50,000" and "50,000"; and

On page 216, delete lines 2, 3 and 4; and

On page 216, line 8, delete "90,000" and "90,000" and insert "100,000" and "100,000"; and

On page 216, delete line 21; and

On page 216, line 22, delete "35,000" and "34,000" and insert "40,000" and "35,000"; and

On page 217, line 9, delete "65,000" and "65,000" and insert "100,000" and "150,000"; and

On page 217, delete lines 10, 11, 12, and 13; and

On page 217, line 14, delete "Purchase", and insert "Equipment"; and

On page 217, delete lines 15, 16 and 17; and

On page 217, line 22, delete "340,000" and insert "400,000"; and

On page 217, line 26, delete "300,000" and insert "400,000"; and

On Page 218, line 10, "115,000" and insert "125,000"; and

Renumber items accordingly.

Floor Amendment No. 25 to the Committee Substitute to **HB 395**, by Representative B. Smith:

HB 395, Local Government Economic Development Fund

Part II

Harlan County

On page 200, line 11, delete "5,000" and insert "2,000"; and

On page 200, line 14, delete "-0-" and insert "26,000" and delete "65,000" and insert "-0-"; and

On page 200, line 24, delete "-0-" and insert "100,000"; and

On page 201, line 4, delete "100,000" and insert "120,000" and delete "80,000" and insert "100,000"; and

On page 201, line 7, delete "30,000" and insert "-0-"; and

On page 201, line 11, delete "-0-" and insert "75,000" and delete "54,165" and insert "75,000"; and

On page 201, line 13, delete "Operations and Equipment" and insert "Water Extension to Blair, Cloverfork, and Gilley Hollow"; and

On page 201, line 14, delete "45,000" and insert "104,000" and delete "25,000" and insert "-0-"; and

On page 201, line 17, delete "25,000" and insert "20,000"; and

On page 201, line 20, delete "and Grays Knob"; and

On page 201, line 21, delete "200,000" and insert "50,000"; and

On page 201, line 24, delete "35,000" and insert "50,000"; and

On page 201, line 26, delete "City Improvements/Park and"; and

On page 202, line 1, delete "15,000" and insert "-0-" and delete "15,000" and insert "40,000"; and

On page 202, line 2, after the word "of" insert "Benham - Water Tank Repairs and Replacement"; and

On page 202, delete line 3; and

On page 202, line 4, delete "70,000" and insert "200,000" and delete "25,000" and insert "-0-"; and

On page 202, line 8, delete "-0-" and insert "50,000" and delete "100,000" and insert "75,000"; and

On page 202, line 11, delete "-0-" and insert "55,000" and delete "40,000" and insert "79,000"; and

On page 202, line 14, delete "75,000" and insert "-0-" and delete "50,000" and insert "85,000"; and

On page 202, line 17, delete "75,000" and insert "100,000" and delete "50,000" and insert "-0-"; and

On page 202, line 20, delete "200,000" and insert "-0-" and delete "300,000" and insert "500,000"; and

On page 202, line 23, delete "-0-" and insert "200,000" and delete "100,000" and insert "-0-"; and

On page 202, line 26, delete "50,000" in FY 2005-06 and insert "-0-"; and

On page 203, line 6, delete "50,000" and insert "40,000" and delete "40,000" and insert "20,000"; and

On page 203, delete lines 7, 8, 9, and 10; and

On page 203, line 15, delete "100,000" and insert "250,000" and delete "150,000" and insert "200,000"; ;and

By renumbering items to conform.

Floor Amendment No. 26 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, General Provisions

Part III

On page 279, between lines 23 and 24, by inserting the following:

" **54. Appropriations from the Legislative Branch Budget**: The sum of $2,000,000 in fiscal year 2004-2005 and $2,000,000 in fiscal year 2005-2006 is lapsed from the fiscal year 2003-2004 General Fund Continuing appropriation of the Legislative Research Commission budget unit for the purpose of restoring funds to the Kentucky Economic Development Finance Authority."

Floor Amendment No. 27 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Economic Development Cabinet

Secretary

Part I

On page 39, line 13, by deleting "8,998,500" and inserting 9,998,500";

On page 39, line 15, by deleting "11,365,100" and inserting 12,365,100";

On page 41, line 22, after "effort." by inserting "Included in the above General Fund appropriation is $1,000,000 in fiscal year 2004-2005 to support the recruitment of a federal research lab to the Commonwealth."

Justice and Public Safety Cabinet

Part I

On page 102, line 24, by deleting "10,412,800" and inserting "9,412,800";

On page 102, line 26, by deleting "$10,412,800" and inserting "$9,412,800";

SUMMARY: Provide funds from the appropriation for the Little Sandy Correctional Complex to support the recruitment of a federal lab to the Commonwealth.

Floor Amendment No. 28 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Justice and Public Protection Cabinet

Part I

On page 102, line 24, by deleting "12,107,600" and insert "11,154,600";

On page 102, line 27, by deleting "$12,107,600" and inserting "$11,154,600";

Capital Projects Budget

Part II

On page 130, line 19, by deleting "and";

On page 130, line 20, by deleting "." and inserting "; and"

On page 130, between lines 20 and 21, by inserting the following:

" t. Economic Development Cabinet, Economic Development Bond Pool Fund.

$953,000 from the appropriation for the Little Sandy Correctional Complex is included to support the fiscal year 2005-2006 debt service required to support this project."

SUMMARY: Restore Economic Development Bond Pools funds using funds for the Little Sandy Correctional Complex.

Floor Amendment No. 29 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Justice and Public Safety Cabinet

Part I

On page 102, line 24, by deleting "10,412,800" and inserting "8,412,800" and by deleting "12,107,600" and insert "10,107,600";

On page 102, line 26, by deleting "$10,412,800" and inserting "$8,412,800";

On page 102, line 27, by deleting "$12,107,600" and inserting "$10,107,600";

General Provisions

Part III

On page 279, between lines 23 and 24, by inserting the following:

" **54. Appropriations from the Justice Cabinet:** The sum of $2,000,000 in fiscal year 2004-2005 and $2,000,000 in fiscal year 2005-2006 is transferred from the appropriation for the Little Sandy Correctional Complex for the purpose of restoring funds to the Kentucky Economic Development Finance Authority."

SUMMARY: Move money from the Little Sandy Correctional Complex for the purpose of restoring funds to the Kentucky Economic Development Finance Authority.

Floor Amendment No. 30 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, General Provisions

Part III

On page 279, after line 23, insert the following language:

"**54. Appropriations from the Legislative Branch Budget:** The sum of $2,575,000 is lapsed from the General Fund Continuing appropriation of the Legislative Research Commission budget unit at the close of fiscal year 2003-2004. There is appropriated $2,575,000in fiscal year 2004-2005 to the Council on Postsecondary Education for debt service the Eastern Kentucky University Business/Technology Center, Phase II."

"

Floor Amendment No. 31 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Part II

On page 130, line 19, delete “and”;

On Page 130, line 20, after the word Oakwood, delete "."; and insert in lieu thereof ";"

On page 130, between lines 20 and 21 insert the following:
"t. Warren County Technology Center; and
u. Business/Technology Center, Phase II."

Floor Amendment No. 32 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Department of Education

Part I

On page 45, line 24, delete "593,939,600" and insert "594,939,600" in lieu thereof and delete "608,658,800" and insert in lieu thereof "609,658,800", and

On page 45, line 27, delete "1,122,788,600" and insert "1,123,788,600" in lieu thereof and delete "1,137,571,500" and insert "1,138,571,500 in lieu thereof; and

On page 50, after line 1, insert the following language:

"**(16) Read to Achieve:** Included in the above appropriation is $7,100,000 in fiscal year 2004-2005 and $7,100,000 in fiscal year 2005-2006 to support the Read to Achieve program."

On page 54, line 12, delete "3,041,652,700" and insert "3,042,652,700" in lieu thereof and delete "3,208,352,800" and insert "3,209,352,800" in lieu thereof; and

On page 54, line 15, delete "3,573,415,900" and insert "3,574,415,900" in lieu thereof and delete "3,739,647,700" and insert "3,740,647,700" in lieu thereof.

Justice and Public Safety Cabinet

Part I

On page 102, line 24, delete "10,412,800" and insert "9,412,800" in lieu thereof and delete "12,107,600" and insert "11,107,600" in lieu thereof; and

On page 102, line 26, delete "10,412,800": and insert "9,412,800" in lieu thereof; and

On page 102, line 27, delete "12,107,600" and insert "11,107,600" in lieu thereof.

On page 104, line 27, delete "319,464,300" and insert "318,464,300" in lieu thereof and delete "325,730,300" and insert "324,730,300" in lieu thereof; and

On page 105, line 3, delete "339,975,900" and insert "338,975,900" in lieu thereof and delete "345,370,300" and insert "344,370,300 in lieu thereof.

SUMMARY: Funds are made available to expand the Read to Achieve program, a program with the goal of ensuring all children obtain appropriation reading skills in the early elementary grades. Funds are removed from the appropriation to the Little Sandy Correctional Complex in Elliott County.

Floor Amendment No. 33 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Economic Development Cabinet

Office of the Secretary

Part I

On page 39, line 13, by deleting "8,998,500" and inserting 9,998,500";

On page 39, line 15, by deleting "11,365,100" and inserting 12,365,100";

On page 41, line 22, after "effort." by inserting "Included in the above General Fund appropriation is $1,000,000 in fiscal year 2004-2005 to support the recruitment of a federal research lab to the Commonwealth."

General Provisions

Part III

On page 279, between lines 23 and 24, by inserting the following:

" **54. Appropriations from the Legislative Branch Budget:** The sum of $1,000,000 in fiscal year 2004-2005 is lapsed from the fiscal year 2003-2004 General Fund Continuing appropriation of the Legislative Research Commission budget unit for the purpose of providing funds to support the recruitment of a federal research laboratory."

SUMMARY: Restore funds transferred from the Kentucky Economic Development Finance Authority. Funds to come from the Legislative Research Commission General Fund continuing appropriation.

Floor Amendment No. 34 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Justice and Public Safety Cabinet, Adult Correctional Facilities

Part I, Operating Budget

On page 102, line 24, delete "12,107,600" and insert in lieu thereof "7,883,400", and adjust subtotals and totals accordingly.

On page 102, line 27, delete "12,107,600" and insert "7,883,400" in lieu thereof.

Part III, General Provisions

On page 279, after line 23, add the following language:

" **54. Appropriations from the Justice Cabinet:** The sum of $4,224,200 is transferred in fiscal year 2005-2006 from the General Fund appropriation of the Justice Cabinet in the Adult Correctional Institutions appropriation to the Judicial Branch budget, Court Operations and Administration appropriation unit to support funding for additional drug court sites throughout the Commonwealth."

Floor Amendment No. 35 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, General Provisions

Part III

On page 279, after line 23, add the following language:

" **54. Appropriations from the Legislative Branch Budget:** The sum of $4,224,200 is lapsed from the General Fund continuing appropriation of the Legislative Research Commission at the close of fiscal year 2003-2004. There is appropriated from the General Fund $4,224,200 in fiscal year 2005-2006 to the Judicial Branch budget in the Court Operations and Administration appropriation unit to support funding for additional drug court sites throughout the Commonwealth."

Floor Amendment No. 36 to the Committee Substitute to **HB 395**, by Representative Upchurch:

HB 395, Community Services and Local Facilities

Part I

On page 102, line 24, delete "10,412,800" and insert "6,458,400", and delete "12,107,600" and insert "6,485,600";

On page 102, line 26, delete "10,412,800" and insert "6,458,400"; and

On page 102, line 27, delete "12,107,600" and insert "6,485,600"; and

On page 103, line 15, delete "82,654,200" and insert "86,581,600", and delete "86,290,500" and insert "91,912,500"; and

On page 103, line 17, delete "83,025,200" and insert "86,952,600", and delete "86,661,500" and insert "92,283,500".

Floor Amendment No. 37 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Capital Projects Budget

Part II

On page 130, line 19, by deleting "and";

On page 130, line 20, by deleting "." and inserting "; and"

On page 130, between lines 20 and 21, by inserting the following:

" t. Economic Development Cabinet, Economic Development Bond Pool Fund.";

General Provisions

Part III

On page 279, between lines 23 and 24, by inserting the following:

" **54. Appropriations from the Legislative Branch Budget:** The sum of $953,000 in fiscal year 2005-2006 is lapsed from the fiscal year 2003-2004 General Fund Continuing appropriation of the Legislative Research Commission budget unit for the purpose of providing funds to support a full year's debt service for the Economic Development Bond Pool project in Part II of this Act."

SUMMARY: Restore a full year's debt service for the Economic Development Bond Pool and fund out of the Legislative Branch continuing appropriation.

Floor Amendment No. 1 to **HB 397**, by Representative DeWeese':

HB 397, General Assembly

Part I

On page 1, after line 23, insert the following:

"The balance remaining at the end of fiscal year 2003-2004 totaling $7,582,200, shall not carry forward into fiscal year 2004-2005 and shall lapse to the credit of the General Fund Surplus account (KRS 48.700)."

Legislative Research Commission

Part I

On page 2, after line 12, insert the following:

"The balance remaining at the end of fiscal year 2003-2004 totaling $7,697,000, shall not carry forward into fiscal year 2004-2005 and shall lapse to the credit of the General Fund Surplus account (KRS 48.700)."

Floor Amendment No. 38 to the Committee Substitute to **HB 395**, by Representative Moberly:

HB 395, Capital Construction

Part II

On page 130, line 19, delete the word "and";

On page 130, line 20, delete the period ".", and insert the following "; and";

On page 130, between lines 20 and 21, insert a new line containing the following language:

" t. Economic Development Bond Pool Projects - $10,000,000 of New Bond Authorization. Fiscal year 2005-2006 debt service in the amount of $953,000 shall be paid from the Budget Reserve Trust Fund.".

Floor Amendment No. 39 to **HB 395**, by Representative Moberly:

HB 395, General Government

General Operations

Part I

On page 1, line 5, after "June 30," by inserting a space;

On page 6, line 15, after the period, by inserting the following:

"The General Fund appropriation for the Health Insurance COLA Account shall be supplemented by Restricted Agency Funds, Federal Funds, the Road Fund, and other General Fund amounts appropriated in Part I of this Act that are otherwise available to state agencies and shall be used to provide for the adjustment under this section. The Road Fund appropriation for the Transportation Cabinet budget units shall be used to fund the cost of the employee Health Insurance COLA for its employees";

Department of Local Government

Part I

On page 11, line 21, by deleting "-American";

On page 11, line 23, by deleting "-American";

General Government Totals

Part I

On page 34, line 24, by deleting "227,572,000" and "259,159,600" and inserting "229,042,500" and "262,173,700";

On page 35, line 1, by deleting "633,631,700" and "661,580,200" and inserting "635,102,200" and "664,594,300";

Commerce Cabinet

Kentucky Horse Park

Part I

On page 37, line 4, by deleting "1,821,200" in each year and inserting "1,621,200" in each year;

On page 37, line 6, by deleting "7,544,000" and "7,550,200" and inserting "7,344,000" and "7,350,200";

On page 37, by deleting lines 10 and 11;

On page 39, line 5, by deleting "51,884,800" and "54,875,200" and inserting "51,684,800" and "54,675,200";

Education Cabinet

Secretary

Part I

On page 55, line 3, by deleting "$25,000 for the Bluegrass State";

On page 55, line 4, by deleting "Games,";

Environmental and Public Protection Cabinet

General Administration and Program Support

Part I

On page 65, between lines 4 and 5, by inserting the following:

" (2) **Coal Waste Study:** Notwithstanding KRS 146.565 and 146.570, the sum of $300,000 shall be allocated to the Department of Mining and Engineering in the University of Kentucky for use as an initiative to secure federal grant money for a coal waste impoundment research initiative. The research will focus on areas of inquiry identified by the National Research Council Committee on Coal Waste Impoundments in its report *Coal Waste Impoundments: Risks, Responses, and Alternatives.*";

Environmental Protection

Part I

On page 65, by deleting lines 26 and 27;

On page 66, by deleting lines 1 through 4;

Finance and Administration Cabinet

General Administration

Part I

On page 76, line 5, after "provide", by inserting "from the Kentucky Housing Corporation Housing Assistance Fund to the Affordable Housing Trust Fund";

On page 76, line 5, after "2006", by inserting ".";

On page 76, by deleting lines 6 and 7;

Health and Family Services Cabinet

Medicaid Benefits

Part I

On page 87, line 5, by deleting "1,000,000" and inserting "1,416,400" and by deleting "2,302,500" and inserting "3,261,100";

On page 87, line 6, by deleting "75" and inserting "100";

On page 87, line 7, after "support,", by inserting "2,508,000 in Restricted Funds," and by deleting "5,723,700" and inserting "11,465,700";

On page 87, line 8, by deleting "150" and inserting "300";

Medicaid Administration

Part I

On page 91, line 15, after "Appropriations", by inserting "and Revenue";

Kentucky Community and Technical College System

Part I

On page 112, line 23, after the word "System", by deleting "and shall report the issues to the" and inserting ".";

On page 112, by deleting line 24;

On page 112, line 25, by deleting "Notwithstanding KRS 164.5805 and 164.5807 the" and inserting "The";

On page 112, line 27, after the word "employees", by inserting ", regardless of which personnel system they belong";

University of Kentucky

Part I

On page 115, line 13, by deleting "$13,060,600" both times it appears and inserting "$9,060,600" in lieu thereof;

On page 116, line 4, by deleting "an additional";

Transportation Cabinet

Public Transportation

Part I

On page 126, line 21, by deleting "system's" and inserting "systems'";

Vehicle Regulation

Part I

On page 128, between lines 16 and 17, by inserting the following:

"Bond Funds 250,000,000 250,000,000"

Capital Projects Budget

Part II

On page 130, line 12, by deleting "UCJIT" and inserting "UCJIS";

Commerce Cabinet

Kentucky Horse Park

Part II

On page 136, after line 21, by inserting the following:

"003. Lease-Purchase Equipment (5 year-term)
General Fund 200,000 200,000"

Education Cabinet

Kentucky Educational Television

Part II

On page 139, by deleting lines 16 and 17, and renumbering subsequent sections;

Council on Postsecondary Education

Part II

On page 150, line 13, by deleting "one", and inserting "two" and by deleting "exception" and inserting "exceptions";

On page 150, after line 24 by inserting the following:

" If 2004 HB 489 is not enacted, the University of Kentucky is authorized to issue Agency Bonds in the amount of $25,000,000 and Restricted Funds in the amount of $25,000,000 for the construction of the Patient Bed Tower Hospital Project.";

On Page 151, line 10, after "Auxiliary" insert "(Reauthorization $1,200,000 Restricted Funds)" and deleting "1,200,000 -0-";

On page 151, line 22, by deleting "28,000,000" and inserting "32,800,000";

On page 151, by deleting lines 23 and 24;

On page 152, line 18, after "Stadium", by inserting, "(Reauthorization $5,003,000 Restricted Funds)" and deleting "5,003,000 -0-";

On page 152, line 21, after "Program" by inserting "(Reauthorization $2,676,000 Restricted Funds)" and by deleting "2,676,000 -0-";

On page 153, line 5, by deleting "4,200,000" and inserting "11,500,000";

On page 153, by deleting lines 6 and 7;

On Page 157, by deleting lines 26 and 27;

On page 158, by deleting lines 1 and 2 and renumbering accordingly;

On page 158, line 15, by deleting "1,500,00" and inserting "1,500,000";

On page 180, after line 1, by inserting the following:

"242.	Renovate /Expand Boone Faculty Center		
	Other Funds	3,500,000	-0-
243.	Renovate Gillis Building		
	Restricted Funds	9,500,000	-0-
244.	Renovate IRIS Project Facility		
	Restricted Funds	1,035,000	-0-
245.	Purchase Dentistry Patient Management Software		
	Restricted Funds	1,065,000	-0-";

General Government (Coal Severance Projects)

Part II

On page 189, by deleting line 19 in its entirety and inserting in lieu thereof the following:

Budget Unit 2004-05 2005-06"

On page 192, line 19, by deleting "Family" and inserting "Breathitt County";

On page 192, line 22, after "Court -" by inserting "Breathitt County";

On page 201, line 19, after the word "Inspection", by inserting ", Extension,";

On page 228, by deleting lines 25 through 27 and renumbering subsequent sections accordingly;

On page 229, line 10, by deleting "-0-" and inserting "100,000";

Water and Sewer Resources Development Fund for Coal Producing Counties

Part II

On page 240, line 15, by deleting **"2003-04"** and **"2004-05"** and inserting **"2004-05"** and **"2005-06"**;

On page 240, line 16, by deleting **"Local Government"** and inserting **"Kentucky Infrastructure Authority"**;

On page 260, after line 23, insert the following:

"N. WATER AND SEWER RESOURCES DEVELOPMENT FUND FOR TOBACCO COUNTIES

Bond Funds in the amount of $62,295,000 are authorized for projects within the Water and Sewer Resources Development Fund for Tobacco Counties. The Bond Pool authorization identified in Part II, A. General Government, 2. Kentucky Infrastructure Authority, Item 004., of this Act, and the Projects list as identified in this section shall be placed under the jurisdiction of the Kentucky Infrastructure Authority (KIA). There is $6,000,000 in fiscal year 2003-2004 appropriated from the General Fund (Tobacco) for debt service. From the effective date of this Act, interest earnings and/or investment income earned on bond proceeds shall be retained by the Water and Sewer Resources Development Fund for Tobacco Counties. Any interest earnings and/or investment income shall be made available for approved projects. The Executive Director of KIA, the Secretary of the Finance and Administration Cabinet, and Bond Counsel shall determine the most permissive cost-advantageous method for issuing the bonds including using an existing bond indenture, creating a new bond indenture, and utilizing the State Property and Buildings Commission or the Kentucky Asset/Liability Commission for the issuance of the bonds.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit Kentucky Infrastructure Authority	2004-05	2005-06
Adair County			
001.	Adair County Water District - Water and Sewer Line Projects		
	Bond Fund	400,000	-0-
Allen County			
001.	Allen County Fiscal Court - Water and Sewer Line Extension to Industrial Park and Various Water and Sewer Line Improvements		
	Bond Fund	625,000	-0-
002.	City of Scottsville - 980 Project Extension Sewer and Water to New Highway #231		
	Bond Fund	250,000	-0-
Anderson County			
001.	South Anderson Water District - Phase 7 Water Line Extensions		
	Bond Fund	500,000	-0-
Ballard County			
001.	Bandana Water District - Water Line Improvements		
	Bond Fund	25,000	-0-
002.	City of Barlow - Remove and Replace Various Old Water Lines and Replace Old Sewage Pump Station		
	Bond Fund	100,000	-0-
003.	City of Kevil - Paint and Repair Two Water Towers and Construct 1.5 Miles PVC		
	Bond Fund	50,000	-0-
004.	City of Kevil - Repair Old Sewer Lines to Stop Infiltration		
	Bond Fund	50,000	-0-
005.	City of LaCenter - Paint and Repair Water Tower and Construct Extension to Ballard County School Complex		
	Bond Fund	100,000	-0-

006.	City of Wickliffe - Move Sewer Lift Station from Flood Prone Area		
	Bond Fund	100,000	-0-
007.	Lovelaceville Water District - Water Line Improvements		
	Bond Fund	25,000	-0-
Barren County			
001.	Barren County Fiscal Court - Glasgow Water Transmission Lines and Booster Pump to Transfer Water from South of Glasgow to Water Tank on Highway 90		
	Bond Fund	400,000	-0-
Bath County			
001.	Bath County Fiscal Court - Sewer Line Extension 3 Miles of Collection Lines		
	Bond Fund	400,000	-0-
002.	City of Sharpsburg - One Mile of Collection Line, Upgrade of Existing Plant		
	Bond Fund	400,000	-0-
Bourbon County			
001.	Bourbon County Fiscal Court - Centerville Sewer Project		
	Bond Fund	400,000	-0-
Boyle County			
001.	City of Junction City - Junction City Water and Sewer Projects		
	Bond Fund	400,000	-0-
Bracken County			
001.	Bracken County Water District - 875/10 Eastern Area (WX1023003)		
	Bond Fund	265,000	-0-
002.	Bracken Fiscal Court - Augusta - Rt. 8 Project		
	Bond Fund	80,000	-0-
003.	Bracken Fiscal Court - Augusta I & I & SSES Studies (SX21023004)		
	Bond Fund	150,000	-0-
004.	Bracken Fiscal Court - Brooksville I & I & SSES Studies (SX21023003)		
	Bond Fund	100,000	-0-
Breckinridge County			
001.	Breckinridge County Fiscal Court - Hardinsburg Water System		
	Bond Fund	200,000	-0-
Bullitt County			
001.	Bullitt County Fiscal Court - Fox Chase Water and Sewer Projects		
	Bond Fund	50,000	-0-
002.	Bullitt County Fiscal Court - Hebron Estates Water and Sewer Projects		
	Bond Fund	50,000	-0-
003.	Bullitt County Fiscal Court - Hillview Water and Sewer Projects		
	Bond Fund	75,000	-0-
004.	Bullitt County Fiscal Court - Lebanon Junction Sewer Expansion		

	Bond Fund	100,000	-0-
005.	Bullitt County Fiscal Court - Mt. Washington Water and Sewer Projects		
	Bond Fund	75,000	-0-
006.	Bullitt County Fiscal Court - Pioneer Village Water and Sewer Projects		
	Bond Fund	50,000	-0-
007.	Bullitt County Fiscal Court - Shepherdsville Water and Sewer Projects		
	Bond Fund	75,000	-0-
008.	Bullitt County Fiscal Court - Water Lines Hill Top Road from Hwy 44 to End (WX021029076)		
	Bond Fund	399,000	-0-
Caldwell County			
001.	Caldwell County Water District - Water Tank (WX21033004)		
	Bond Fund	300,000	-0-
002.	Princeton-Fontain/Meadow Lane Sewer Line (SX2103301)		
	Bond Fund	400,000	-0-
Calloway County			
001.	Dexter-Almo Water District - Water Line Extensions (WX21035012)		
	Bond Fund	185,000	-0-
002.	Murray Water & Sewer District - Water Line Extensions (WX21035007)		
	Bond Fund	280,000	-0-
003.	Murray Water And Sewer - KY 80 and Branwood Park Sewer Expansion to Unserved Areas (SX21035009)		
	Bond Fund	140,000	-0-
004.	Murray Water and Sewer - Sewer Line Extension (SX21035010)		
	Bond Fund	525,000	-0-
005.	Murray Water and Sewer - Waterline Improvement 12" Line Installation (WX21035013)		
	Bond Fund	270,000	-0-
006.	Murray Water District 2 - Hwy 1215/Paris Rd./Tobacco Rd. Water Line Extension (WX21035004)		
	Bond Fund	300,000	-0-
Campbell County			
001.	Northern Kentucky Water District - Water Line Extension (WX21037552)		
	Bond Fund	255,000	-0-
Carlisle County			
001.	City of Arlington - Replace and/or Repair Leaking Sewer Mains		
	Bond Fund	190,000	-0-
002.	City of Bardwell - Replace and/or Repair Leaking Sewer Mains		
	Bond Fund	190,000	-0-
003.	Cunningham Water District - Paint Tower and Run Extension to New Subdivision		
	Bond Fund	20,000	-0-

004.	Milburn Water District - Paint Tower and Install New Meters		
	Bond Fund	30,000	-0-
Carroll County			
001.	Carrollton Utilities - Carroll County Regional Sewer Sanitary Sewer Improvements - Happy Hollow Resort/Old 227 Mobile Home Park/Park Acres/Woodlawn Subdivision/ Dan Hawkins Extension/ Easterday/ Boone Rd. Ext.		
	Bond Fund	500,000	-0-
Carter County			
001.	City of Grayson - Route 1 Project (SX21043002)		
	Bond Fund	150,000	-0-
002.	City of Olive Hill - Cemetery Road Project (SX21043020)		
	Bond Fund	175,000	-0-
003.	City of Olive Hill - Olive Hill College Hill Project (SX21043012)		
	Bond Fund	175,000	-0-
004.	Grayson Utility Commission - New Water Intake at WTP (WX21043003)		
	Bond Fund	300,000	-0-
005.	Rattlesnake Ridge Water District - RRWD Phase VIII (WX21043020)		
	Bond Fund	200,000	-0-
Casey County			
001.	Casey County Fiscal Court - East Casey Water - Water Project		
	Bond Fund	150,000	-0-
002.	Casey County Fiscal Court - Liberty Sewer Project		
	Bond Fund	50,000	-0-
003.	Casey County Sewer - Loretto Water Project		
	Bond Fund	150,000	-0-
Clark County			
001.	Clark County Fiscal Court - I-64 Interstate Bore Hoods Creek SX21049017		
	Bond Fund	325,000	-0-
002.	Clark County Fiscal Court - Lower Howards Creek Backbone Interceptor/Pump Station (SX21049004)		
	Bond Fund	500,000	-0-
003.	Clark County Fiscal Court - Winchester Municipal Utilities - South Main Wastewater SX21049016		
	Bond Fund	325,000	-0-
004.	Clark County Fiscal Court - Winchester Municipal Utilities - US 60/ EKP Sanitary Sewer SX21049012		
	Bond Fund	100,000	-0-
Clinton County			
001.	Clinton County Fiscal Court - Albany Water Treatment Plant Sludge Conditioning System		
	Bond Fund	150,000	-0-
Crittenden County			
001.	City of Marion - Wastewater Improvements (SX21055001)		
	Bond Fund	250,000	-0-

002.	Crittenden/Livingston County Water District - Source Water Intakes (WX21139002)		
	Bond Fund	500,000	-0-
Edmonson County			
001.	Edmonson County Water District - Water Line Extension (WX21061001)		
	Bond Fund	240,000	-0-
002.	Edmonson County Water District - Water Line Extensions (WX21061019)		
	Bond Fund	760,000	-0-
Estill County			
001.	Estill County Fiscal Court - Various Water and Sewer Projects		
	Bond Fund	750,000	-0-
Fayette County			
001.	Lexington-Fayette Urban County Government - LFUCG-Division Sanitary Sewers (SX210670003)		
	Bond Fund	1,000,000	-0-
002.	Lexington-Fayette Urban County Government - Provide Enhanced Nutrient Removal for Blue Sky WWTP (SX21067007)		
	Bond Fund	600,000	-0-
003.	Lexington-Fayette Urban County Government - Providing Service to Remaining Unsewered Areas (SX2167001)		
	Bond Fund	1,000,000	-0-
Fleming County			
001.	City of Ewing - Ewing Sewer (SX21069004)		
	Bond Fund	250,000	-0-
002.	City of Flemingsburg - Cherry Grove Road Sewer project (SX21069001)		
	Bond Fund	165,000	-0-
003.	City of Flemingsburg - Pump Station Upgrade (SX21069002)		
	Bond Fund	100,000	-0-
004.	Fleming County Water District - Water System Improvements (WX21069007)		
	Bond Fund	50,000	-0-
005.	Greater Fleming County Regional Water Commission - 2005 Water Line Extensions (WX21069009)		
	Bond Fund	50,000	-0-
Franklin County			
001.	City of Frankfort - Holmes Street Sewers - Sewer Expansion (SX21073002)		
	Bond Fund	695,000	-0-
002.	Franklin County Fiscal Court - North Shelby Water District - Frankfort Plant Board - Bain Moore Hill Water Project		
	Bond Fund	225,000	-0-
003.	Franklin County Fiscal Court - Peaks Mill Water District - Knights Bridge Area Water Project (WX21073003)		
	Bond Fund	330,000	-0-
Fulton County			
001.	City of Fulton - Water Line Extension to New Growth Area		
	Bond Fund	250,000	-0-

002. City of Hickman - Replace Water Lines, Replace Aging Fire Plug, Replacements to Both Water Treatment Plant and Wastewater Plant		
Bond Fund	100,000	-0-
Gallatin County		
001. Gallatin County Fiscal Court - Sewer Line Expansion Within County		
Bond Fund	400,000	-0-
Garrard County		
001. Garrard County Fiscal Court - Lancaster Water and Sewer Projects		
Bond Fund	250,000	-0-
002. Garrard County Water Association - Water Line Projects		
Bond Fund	50,000	-0-
Grant County		
001. Grant County Fiscal Court - Water and Sewer Projects		
Bond Fund	600,000	-0-
Graves County		
001. City of Mayfield Electric and Water System - Radio Controlled Telemetry/Mapping Project		
Bond Fund	100,000	-0-
002. Consumers Water District - Cuba Water Transmission Project		
Bond Fund	280,000	-0-
003. Fancy Farm Water and Sewer District - Mayfield/Fancy Farm Water Interconnect and Ky 80 Extension		
Bond Fund	495,000	-0-
004. Fancy Farm Water and Sewer District - Wastewater Treatment Plant Upgrade		
Bond Fund	255,000	-0-
005. Fancy Farm Water Sewer District KY 339 and Carrico Rd. Sanitary Sewer Extension		
Bond Fund	320,000	-0-
006. Hardimon Water District - Water Tank Repairs		
Bond Fund	100,000	-0-
007. Symsonia Water and Sewer District - Water Line Extensions		
Bond Fund	150,000	-0-
Grayson County		
001. Grayson County Fiscal Court - Caneyville Sewer Plant Upgrade		
Bond Fund	100,000	-0-
002. Grayson County Fiscal Court - Leitchfield Sewer Facility Upgrade		
Bond Fund	150,000	-0-
003. Grayson County Fiscal Court - Storage Tank Near Rough River State Park		
Bond Fund	150,000	-0-
Green County		
001. Green County Fiscal Court - Greensburg Water Renovations Project		
Bond Fund	75,000	-0-

002.	Green County Fiscal Court - Summersville Sewer Project		
	Bond Fund	75,000	-0-
Hancock County			
001.	Hancock County Fiscal Court - Water Line Expansion		
	Bond Fund	100,000	-0-
Hardin County			
001.	City of Radcliff - Replacement of Two EQ Basin Liners		
	Bond Fund	450,000	-0-
002.	City of Radcliff - Upgrade Boone Trace Lift Station to Relieve Overload		
	Bond Fund	450,000	-0-
003.	City of Vine Grove - Sewer and Water Line Expansion Hwy 313		
	Bond Fund	850,000	-0-
004.	City of West Point - Sanitary Sewer System Expansion Project		
	Bond Fund	122,000	-0-
005.	Hardin County Fiscal Court - Phase 4 2020 Plan		
	Bond Fund	1,000,000	-0-
006.	Hardin County Fiscal Court - Quality Assurance Maintenance Project - Upgrades and Required Maintenance on Existing Infrastructures		
	Bond Fund	250,000	-0-
Harrison County			
001.	City of Cynthiana - Waste Water Plant (SX21097001)		
	Bond Fund	650,000	-0-
002.	Harrison County Water Association - Telemetry Upgrade (WX21097003)		
	Bond Fund	35,000	-0-
Hart County			
001.	Green River Valley Water District - Water Lines Hart County - Hatcher Valley Road		
	Bond Fund	200,000	-0-
Henry County			
001.	City of Campbellsburg Water Works - Carrollton Regional Force Main (SX21103002)		
	Bond Fund	750,000	-0-
002.	City of Eminence - North Main Street Pumping Station (SX21103003)		
	Bond Fund	90,000	-0-
Hickman County			
001.	City of Clinton - Engineering Plans and Construction Funds to Revamp Sewer System		
	Bond Fund	250,000	-0-
002.	City of Columbus - Paint Tower, Extensions, and Purchase New Water Meters		
	Bond Fund	20,000	-0-
Jefferson County			
001.	Metropolitan Sewer District - Sewer Improvements		
	Bond Fund	6,500,000	-0-
Jessamine County			

001.	City of Nicholasville - McGee Lane Water Main Line Extension (WX21113009)		
	Bond Fund	180,000	-0-
002.	Jessamine County Water District #1 - Water System Improvements (WX1113010)		
	Bond Fund	720,000	-0-
003.	Jessamine South Elkhorn Water District - Southeast Rural Jessamine Unserved Areas (WX21113004)		
	Bond Fund	800,000	-0-
Larue County			
001.	Larue County Water District #1 - Water Line Extensions (WX21123001)		
	Bond Fund	500,000	-0-
Lewis County			
001.	Garrison-Quincy Water District - Water Tank and Line Extension (WX21135006)		
	Bond Fund	200,000	-0-
002.	Lewis County Fiscal Court - Establish Collection System to Serve 0-2 Year Planning Area (SX21135001)		
	Bond Fund	50,000	-0-
003.	Lewis County Sanitation District #1 - Industrial Park Development (SX21135004)		
	Bond Fund	130,000	-0-
004.	Vanceburg Electric Plant Board - Extensions, Tank Repair and Well (WX21135005)		
	Bond Fund	170,000	-0-
005.	Western Lewis Rectorville Water District - Phase IV - Chaulk Ridge Project		
	Bond Fund	200,000	-0-
Lincoln County			
001.	Lincoln County Fiscal Court - Crab Orchard Water Line Repair and Expansions		
	Bond Fund	65,000	-0-
002.	Lincoln County Fiscal Court - Houstonville Water Line Repair and Expansion		
	Bond Fund	65,000	-0-
003.	Lincoln County Fiscal Court - Stanford - Chancellor Road Water Line Expansion		
	Bond Fund	70,000	-0-
Livingston County			
001.	City of Grand Rivers - Sewer System Improvements (SX21139001)		
	Bond Fund	200,000	-0-
002.	Ledbetter Sewer District - Sewer Improvements		
	Bond Fund	50,000	-0-
Logan County			
001.	Logan County Fiscal Court - Elkton and Guthrie Sewers		
	Bond Fund	200,000	-0-
002.	Logan County Fiscal Court - Russellville and Alburn CIMA		
	Bond Fund	200,000	-0-
Lyon County			

001.	Lyon County Fiscal Court - Kuttawa Collection System Expansion		
	Bond Fund	375,000	-0-
Madison County			
001.	City of Berea - Berea Sewer Project		
	Bond Fund	50,000	-0-
002.	Madison County Fiscal Court - Madison County Utilities - Clarksville - Terrill Sewer Project		
	Bond Fund	750,000	-0-
003.	Madison County Utility District - Water Line Improvement		
	Bond Fund	50,000	-0-
004.	Northern Madison County Sanitation District - I-75 Area (SX21151001)		
	Bond Fund	1,000,000	-0-
005.	Southern Madison Water District - Water and Sewer Projects		
	Bond Fund	500,000	-0-
Marion County			
001.	Marion County Sewer - Brandfordsville - Water Project		
	Bond Fund	25,000	-0-
Marshall County			
001.	Marshall County Fiscal Court - Jonathan Creek - Hwy 962/Palestine Rd. Hwy 80 Line Extensions and Various Water Line Extensions		
	Bond Fund	1,125,000	-0-
Mason County			
001.	City of Germantown - Germantown Sewers Upgrade (SX21161001)		
	Bond Fund	150,000	-0-
002.	Mason Fiscal Court - Mays Lick 201 (SX21161003)		
	Bond Fund	60,000	-0-
003.	Maysville Utility - Reservoir Rehabilitation		
	Bond Fund	75,000	-0-
004.	Maysville Utility - Stone Lick Line Extension		
	Bond Fund	150,000	-0-
005.	Western Lewis Rectorville - Phase IV Chaulk Ridge Project (WX21161001)		
	Bond Fund	50,000	-0-
006.	Western Mason Water District - Water System Improvements (WS21161010)		
	Bond Fund	100,000	-0-
McCracken County			
001.	West McCracken Water District - Construction of 3.5 Miles of 6" PVC Water Main to Serve 75 Homes and Two Businesses		
	Bond Fund	200,000	-0-
Meade County			
001.	City of Brandenburg - Sewer Project - Up-grade of Middle School Lift Station		
	Bond Fund	350,000	-0-
002.	City of Muldraugh - Sewer Project - Sewer Line/Pump Sation Rehabilitation		

	Bond Fund	93,903	-0-
003.	Meade County Water District - KY 1816 Grid - Tie WM Extension		
	Bond Fund	118,597	-0-
004.	Meade County Water District - Phase VI Project Molly Brown Road/KY 79 WM Extension		
	Bond Fund	516,500	-0-
Mercer County			
001.	Lake Village Water Association - Contract 13 Upgrades (WX2167009)		
	Bond Fund	300,000	-0-
002.	Mercer Co. Fiscal Court - Wastewater Planning for County (SX21167006)		
	Bond Fund	50,000	-0-
003.	North Mercer Water District - 2004 Extensions (WX21167007)		
	Bond Fund	400,000	-0-
Metcalfe County			
001.	Metcalfe County Fiscal Court - Edmonton City Park Water and Sewer Project		
	Bond Fund	75,000	-0-
002.	Metcalfe County Fiscal Court - Water Line Extensions		
	Bond Fund	75,000	-0-
Monroe County			
001.	Monroe County Fiscal Court - Fountain Run Water and Sewer Projects		
	Bond Fund	50,000	-0-
002.	Monroe County Water District - Water Projects		
	Bond Fund	100,000	-0-
Montgomery County			
001.	Judy Water Association - Installation of Flush Hydrants (WX21173035)		
	Bond Fund	100,000	-0-
002.	Judy Water Association - Meter Change Out Program (WX21173034)		
	Bond Fund	50,000	-0-
003.	Levee Water District - New Water Tank (WX21173014)		
	Bond Fund	187,500	-0-
004.	Reid Village Water District - 100,000 Gallon Tank (WX21173039)		
	Bond Fund	187,500	-0-
Nelson County			
001.	Nelson County Fiscal Court - City of Bardstown - 250,000 Gallon Water Tank Woodlawn Road Area		
	Bond Fund	1,200,000	-0-
Nicholas County			
001.	City of Carlisle Wastewater Treatment Plant - Wastewater System Improvements (SX21181001)		
	Bond Fund	300,000	-0-
Oldham County			
001.	Oldham County Fiscal Court - Water Line Extensions to Badgett		

Property Industrial Park (WX021185041)		
Bond Fund	400,000	-0-
Owen County		
001. Owen County Fiscal Court - Water Project to Extend Water Lines in Owen County		
Bond Fund	750,000	-0-
Pendleton County		
001. City of Butler - Phase I Sewer System Rehabiliation (SX21191310)		
Bond Fund	429,920	-0-
002. City of Butler - Phase II Sewer System Rehabilitation East Side Park and Northern Elementary		
Bond Fund	200,000	-0-
Powell County		
001. City of Clay City - Inflow/Infiltration Project		
Bond Fund	212,500	-0-
002. City of Stanton - Wastewater Treatment Plant Expansion		
Bond Fund	212,500	-0-
Pulaski County		
001. Burnside Municipal Water Works - Water Line Extensions		
Bond Fund	100,000	-0-
002. City of Somerset - Water Line Extensions		
Bond Fund	50,000	-0-
003. Pulaski County Fiscal Court - Eubank Water Project		
Bond Fund	25,000	-0-
004. Pulaski County Fiscal Court - Science Hill Water and Sewer Project		
Bond Fund	50,000	-0-
005. Pulaski County Fiscal Court - Somerset Sewer Expansion		
Bond Fund	100,000	-0-
006. Southeastern Water Association - Water Line Expansions		
Bond Fund	250,000	-0-
Robertson County		
001. City of Mt. Olivet - Brierly Ridge Road Water Line (WX21201003)		
Bond Fund	84,200	-0-
002. City of Mt. Olivet - Crescent Hill, Bentley Court, US 62 Water Line Replacement (WX21201006)		
Bond Fund	50,500	-0-
003. City of Mt. Olivet - Reed Lane Water Line (WX21201007)		
Bond Fund	45,000	-0-
Rockcastle County		
001. Rockcastle County Fiscal Court - Livingston Water Line Repair and Expansion		
Bond Fund	100,000	-0-
002. Rockcastle County Fiscal Court - Mt. Vernon Water Line Repair and Expansion		
Bond Fund	100,000	-0-
Rowan County		
001. Morehead Utility Plant Board - Hilda/Hilltop Estates Sewer Project		

	(SX21205017)		
	Bond Fund	250,000	-0-
Russell County			
001.	Russell County Fiscal Court - Jamestown Water Plant Expansion		
	Bond Fund	150,000	-0-
Scott County			
001.	City of Georgetown - Sewer Service For Etterwood Subdivision		
	Bond Fund	1,000,000	-0-
002.	Scott County Fiscal Court - Scott County Reservoir Project		
	Bond Fund	600,000	-0-
Shelby County			
001.	Shelby County Fiscal Court - Simpsonville Wastewater Treatment Plant Expansion		
	Bond Fund	100,000	-0-
002.	Shelby County Fiscal Court - Water Treatment Plant Improvement Project		
	Bond Fund	100,000	-0-
003.	Shelbyville County Fiscal Court - Shelbyville Wastewater Treatment Plant Expansion		
	Bond Fund	100,000	-0-
Simpson County			
001.	City of Franklin - Various Water Supply and Sewer Improvements		
	Bond Fund	350,000	-0-
002.	Simpson County Fiscal Court - Water Supply and Fire Protection Improvements		
	Bond Fund	361,000	-0-
003.	Simpson County Water District - Hwy 100W Pump Station (WX21213005)		
	Bond Fund	99,000	-0-
004.	Simpson County Water District - Upgrade Rapids Pump Station - SCB		
	Bond Fund	65,000	-0-
Spencer County			
001.	Spencer County Fiscal Court - City of Taylorsville Sewer System Expansion (SX21215001)		
	Bond Fund	50,000	-0-
002.	Spencer County Fiscal Court - County Wide Extension - Phase III		
	Bond Fund	50,000	-0-
Trigg County			
001.	Barkley Lake Water District - Water Projects		
	Bond Fund	550,000	-0-
002.	Trigg County - City of Cadiz - Wastewater Treatment Plant Expansion (SX21221001)		
	Bond Fund	200,000	-0-
Trimble County			
001.	City of Bedford - Wastewater System Expansion (SX21223006)		

	Bond Fund	250,000	-0-
002.	City of Milton - Water line Upgrade (WX21223019)		
	Bond Fund	105,000	-0-
003.	Trimble County Water District - Water System Improvement Project (WX21223020)		
	Bond Fund	105,000	-0-
Warren County			
001.	Warren County Water District - 68W Reservoir/to 68W Reservoir/ Hillwood Pump Station/Hwy 1083 Check Valve and Master Meter (WX21227032)		
	Bond Fund	583,400	-0-
002.	Warren County Water District - Hwy 31 W North Water Project (WX21227025)		
	Bond Fund	280,000	-0-
003.	Warren County Water District - North Warren County Water and Sewer Improvement Project (SX21227014)		
	Bond Fund	1,250,000	-0-
004.	Warren County Water District - Oakland Rd./Hays #2 Pump Station (WX21227025)		
	Bond Fund	370,000	-0-
005.	Warren County Water District - Parkway Interceptor Phase 2 (SX21227013)		
	Bond Fund	500,000	-0-
006.	Warren County Water District - Sandhill Rd./Norris Rd./Hwy 1297 pressure Regulator Station/ Hwy 185 @ Garvin Ln./ Old Hway 185/Rigelwood Drive/Hwy 185 @ Green River (WX21227024)		
	Bond Fund	166,600	-0-
Wayne County			
001.	Monticello Utility Commission - Sewer Project		
	Bond Fund	300,000	-0-
002.	Monticello Utility Commission - Water Line Expansions		
	Bond Fund	50,000	-0-
Wolfe County			
001.	City of Campton - Campton Water Plant (WX21237050)		
	Bond Fund	300,000	-0-
002.	City of Campton - Various Water Line Extensions in Hazel Green Area for Unserved Areas		
	Bond Fund	250,000	-0-
003.	City of Campton - Various Water Line Extensions in Lee City to Unserved Areas		
	Bond Fund	250,000	-0-
Woodford County			
001.	City of Midway - Water Loss Reduction Project (WX21239007)		
	Bond Fund	170,000	-0-
002.	City of Versailles - Water Improvements for the City of Versailles (WX21239008)		
	Bond Fund	1,000,000	-0-
003.	Northeast Woodford Water District - Distribution System Extension (WX21239009)		
	Bond Fund	67,135	-0-

004. South Woodford Water District - Water Line Extensions and Storage Tank (WX21239006)

Bond Fund	512,865	-0-"

General Provisions

Part III

On page 279, line 9, by deleting "205-2006" and inserting "2005-2006";

Funds Transfer

Part V

On page 285, line 21, after "Geologists", by inserting tabs to appropriately align the appropriation amounts;

Phase I Tobacco Settlement Funds

Part X

On page 301, line 5, by deleting "(2)";

On page 301, line 6, before "**Tobacco Settlement Funds**", by inserting "**(2)**";

State/Executive Branch Budget Summary

Part XI

On page 305, line 14, by deleting "7,118,189,700" and "7,465,795,600" and inserting "7,117,989,700" and "7,465,595,600";

On page 305, line 19, by deleting "19,058,826,100" and "19,276,185,000" and inserting "19,058,626,100" and "19,275,985,000";

On page 305, line 22, by deleting "800,000" and "6,100,000" and inserting "1,000,000" and "6,300,000";

On page 305, line 23, by deleting "1,763,287,500" and "122,202,700" and inserting "1,836,180,500" and "104,552,700";

On page 306, line 2, by deleting "10,160,000" and inserting "6,170,000";

On page 306, line 3, by deleting "24,600,000" and inserting "28,100,000";

On page 306, line 4, by deleting "2,946,967,900" and "232,805,700" and inserting "3,023,560,900" and "211,365,700";

On page 306, line 9, by deleting "5,746,904,000" and "4,245,263,600" and inserting "5,819,797,000" and "4,227,613,600";

On page 306, line 15, by deleting "10,160,000" and inserting "6,170,000";

On page 306, line 16, by deleting "24,600,000" and inserting "28,100,000"; and

On page 306, line 17, by deleting "22,005,794,000" and "19,508,990,700" and inserting "22,082,187,000" and "19,487,350,700".

Floor Amendment No. 40 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Council on Postsecondary Education

Part I

On page 105, line 21, delete "105,126,100" and insert "105,653,100" in lieu thereof; and

On page 106, line 8, delete "23,635,000" and insert "24,162,000" in lieu thereof; and

Adjust subsequent subtotals and totals accordingly.

Justice and Public Safety Cabinet

Part I

On page 102, line 24, delete "10,412,800" and insert "9,885,800" in lieu thereof; and

On page 102, line 26, delete "10,412,800": and insert "9,885,800" in lieu thereof; and

Adjust subsequent subtotals and totals accordingly.

SUMMARY: Provides debt service for the Warren County Technology Center.

Floor Amendment No. 41 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, General Provisions

Part III

On page 279, after line 23, insert the following language:

"**54. Appropriations from the Legislative Branch Budget:** The sum of $2,575,000 is lapsed from the General

Fund Continuing appropriation of the Legislative Research Commission budget unit at the close of fiscal year 2004-2005. There is appropriated $2,575,000 in fiscal year 2005-2006 to the Council on Postsecondary Education for debt service for the Eastern Kentucky University Business/Technology Center, Phase II."

Floor Amendment No. 42 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, Council on Postsecondary Education

Part I

On page 105, line 21, delete "105,126,100" and insert "152,701,000" in lieu thereof; and

On page 106, line 8, delete "23,635,000" and insert "26,210,000" in lieu thereof; and

Adjust subsequent subtotals and totals accordingly.

Justice and Public Safety Cabinet

Part I

On page 102, line 24, delete "10,412,800" and insert "7,837,800" in lieu thereof; and

On page 102, line 26, delete "10,412,800": and insert "7,837,800" in lieu thereof; and

Adjust subsequent subtotals and totals accordingly.

SUMMARY: Provides debt service for the EKU Business Technical Center

Floor Amendment No. 43 to the Committee Substitute to **HB 395**, by Representative DeWeese:

HB 395, General Provisions

Part III

On page 279, after line 23, insert the following language:

"**54. Appropriations from the Legislative Branch Budget:** The sum of $527,000 is lapsed from the General Fund Continuing appropriation of the Legislative Research Commission budget unit at the close of fiscal year 2004-2005. There is appropriated $527,000 in fiscal year 2005-2006 to the Council on Postsecondary Education for debt service for the Warren County Technology Center."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 25, Representative Lindsay

HB 303, Representatives T. Thompson and Palumbo

HB 336, Representative Riner

HB 435, Representative McKee

HB 436, Representative McKee

HB 459, Representative Horlander

HB 493, Representative Marzian

HB 580, Representative A. Smith

HB 627, Representative Napier

HB 650, Representative T. Thompson

HB 700, Representative Riggs

HCR 202, Representatives T. Thompson and Palumbo

The following members filed requests to have their names withdrawn as co-sponsors of Bills:

HB 25, Representative Yonts

HB 349, Representative Horlander

Announcements

The following meeting was announced:

Committee on Economic Development: upon recess

Committee on Labor and Industry: 12:00 noon, Room 125, Tuesday, March 9, 2004

Committee on Seniors, Military Affairs, and Public Safety: Tuesday, March 9, 2004, 8:30 a.m., Room 129

Committee on Natural Resources and Environment: Tuesday, March 9, 2004, Room 131, 8:30 a.m.

Committee on Local Government: 10:00 a.m., Tuesday, March 9, 2004

Committee on State Government: 12:00 noon, Room 131, Tuesday, March 9, 2004

Representative Adkins moved that no further business be conducted on this day except the receipt of Floor Amendments.

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Tuesday, March 9, 2004. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess until 9:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Adjournment

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 a.m., Tuesday, March 9, 2004, was adopted by voice vote.

TUESDAY, MARCH 9, 2004

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastoral Director Miriam Picconi, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Special guest, violinist Mollie Rogers, performed.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 8, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 231, 232, 233**

Calendar

HB 700 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 595, 614,** and **493** have been posted for passage in the Regular Orders of the Day for March 10, 2004.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 78**

Judiciary: **HB 523**

Representative Stacy moved that the rules be suspended to act on a Resolution. Agreed.

Representative Stacy moved the adoption of the following **HR 222**:

HR 222, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James O. Day.

With deepest respect and admiration, we pay homage and tribute to James O. Day, and we pause in silent reverence for his soul.

WHEREAS, James O. Day, known simply to family and friends as "Jim," was born on May 15, 1929, a native of Mariba, Menifee County, Kentucky, and he traversed these earthly bounds on Veterans Day, November 11, 2003; he was laid to rest in America's most hallowed burial ground, Arlington National Cemetery; and

WHEREAS, James O. Day was the devoted husband of Dorothy Day; he was the proud father of two sons, James H. Day of Herndon, Virginia, and Robert D. Day of Annapolis, Maryland; and two daughters, Elizabeth Day of Gaithersville, Maryland, and Carolyn Howe of Franklin, Tennessee; he was a loving sibling to two sisters, Virginia Day Powell and Eula Klenk, both of Frenchburg, Kentucky; and a brother, George E. Day of Alexandria, Virginia; and he also leaves behind six beautiful grandchildren and several nieces and nephews; and

WHEREAS, James O. Day graduated from Menifee County High School; after high school, he desired to serve his country and was determined to be admitted to the prestigious United States Military Academy, West Point, New York; he dedicated himself to the effort of preparing for entrance exams by attending Sullivan's Prep School, Washington, D.C., and in 1948, James O. Day became the first person from Menifee County to gain admission to West Point, graduating in 1952; he would also earn a master of arts in political theory and government from the University of Maryland in 1974; and

WHEREAS, in 1952, James O. Day was commissioned as a second lieutenant of field artillery in the United States Army; he continued to serve for 22 years, rising to the rank of colonel, retiring on July 31, 1974; and

WHEREAS, Colonel James O. Day was a valiant soldier serving his country with pride and consistently upholding the West Point motto of "duty, honor, country"; he served in both the Korean and Vietnam wars; his final tour was with the Department of the Army General Staff at the Pentagon, Washington, D.C.; and

WHEREAS, Colonel James O. Day was a highly decorated soldier receiving the Legion of Merit with one oak leaf cluster, the Bronze Star, the Air Medal, and many other service ribbons; and

WHEREAS, after retirement, James O. Day and his wife, Dorothy, returned to Kentucky settling in Morehead; he opened a lumber business and became active in politics; in 1980, he represented the 7th District of Kentucky as a delegate to the Democratic National Convention; he was also a member of Masonic Lodge #656, Maytown, Kentucky; he and his wife would later relocate to Texas where he served for six years as president of the Texas Old Time Fiddlers Association; and

WHEREAS, James O. Day was considered a great American and a real patriot by all who knew him; he believed strongly in the principles upon which America was founded and would do battle with those who did not; and

WHEREAS, the passing of James O. Day has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of James O. Day and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James O. Day.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. James Day, 10124 Stoneleigh Drive, Benbrook, Texas 76126.

There being no objection, **HR 222** was adopted.

Representative Adkins moved that the House recess for 30 minutes. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 558 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HB 558** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 9, 2004, roll call on **HB 558** - Appendix.)

HB 558 was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 558** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 563 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 563** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 9, 2004, roll call on **HB 563** - Appendix.)

HB 563 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 563** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 118 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **SB 118** be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See March 9, 2004, roll call on **SB 118** - Appendix.)

SB 118 was passed and the title agreed to.

Representative Thomas moved that the vote by which **SB 118** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 395, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 395**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 39 to **HB 395**. The Speaker stated that LRC staff have advised that the reference to the bill on the printed copy of House Floor Amendment No. 39 is a typographical error. The amendment has been drafted to the Committee Substitute and therefore is in order.

Floor Amendment No. 39 to **HB 395** was adopted.

Representative Moberly moved the previous question on **HB 395**.

On the roll call on the motion for the previous question the vote was: **Yeas 62, Nays 37**. (See March 9, 2004, roll call on the previous question on **HB 395** - Appendix.)

The motion for the previous question on **HB 395** was adopted.

Representative Hoover inquired whether the Chair would impose a ten minute limitation on each side for discussion and a three minute limitation for members to explain votes.

The Speaker answered yes.

Senate Message

Announcing passage of **SB 96, 139, 197, 204, 219, 248,** and **HB 319**.

Message received in regard to **HB 225**: The Senate has passed **HB 225** with the following Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (4:00 p.m.)

Orders of the Day (Continued)

As a point of inquiry, Representative Crall asked if, under House Rule 24, Representative Moberly would have has further time to speak on the issue.

The Speaker replied that no more time would be allowed to Representative Moberly to speak on the issue with the exception of three minutes to explain his vote.

Representative Moberly moved that **HB 395**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 64, Nays 36**. (See March 9, 2004, roll call on **HB 395** - Appendix.)

HB 395, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 395**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 103 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 103** be adopted.

On the roll call the vote was: **Yeas 64, Nays 31**. (See March 9, 2004, roll call on **HJR 103** - Appendix.)

HJR 103 was adopted.

Representative Moberly moved that the vote by which **HJR 103** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 396, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 396**. Agreed.

Representative Moberly moved that **HB 396**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 9, 2004, roll call on **HB 396** - Appendix.)

HB 396, by way of Committee Substitute, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 396**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 104 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 104** be adopted.

On the roll call the vote was: **Yeas 94, Nays 3**. (See March 9, 2004, roll call on **HJR 104** - Appendix.)

HJR 104 was adopted.

Representative Moberly moved that the vote by which **HJR 104** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 397, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 397** be passed.

On the roll call the vote was: **Yeas 57, Nays 37**. (See March 9, 2004, roll call on **HB 397** - Appendix.)

HB 397 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 397** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 105** be adopted.

On the roll call the vote was: **Yeas 58, Nays 36**. (See March 9, 2004, roll call on **HJR 105** - Appendix.)

HJR 105 was adopted.

Representative Moberly moved that the vote by which **HJR 105** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HB 393, HCR 106**, and **SB 181**. Agreed.

Representative Riggs moved the adoption of the following **HR 232**:

HR 232, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Harry Redmon Lair Jr.

With deepest respect and admiration, we pay homage and tribute to Harry Redmon Lair Jr., and we pause in silent reverence for his soul.

WHEREAS, Harry Redmon Lair Jr. was born on September 6, 1952, a native of Cynthiana, Harrison County, Kentucky, and longtime resident of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on March 3, 2004; and

WHEREAS, Harry Redmon Lair Jr. was the loving son of the late Harry Redmon and Margaret Newsome Lair; he was the devoted husband of Harriet Largen Lair; he was the loving father of a son, Harry Redmon Lair III; and he also leaves behind a loving sister, Jennie Carrigan, and a loving niece, Mollie Saunders; and

WHEREAS, Harry Redmon Lair Jr. was a graduate of Riverside Military Academy in Gainesville, Georgia, and the University of Kentucky, where he was a member of Sigma Chi Fraternity; he was a retired administrator for Kentucky state government, and he was a former state president of the Young Democrats; and

WHEREAS, the passing of Harry Redmon Lair Jr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Harry Redmon Lair Jr., and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Harry Redmon Lair Jr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Harriet Largen Lair, 1532 Castlewood Avenue, Louisville, Kentucky 40204.

There being no objection, **HR 232** was adopted.

Representative Sims moved the adoption of the following **Legislative Citation No. 72**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Mary B. Lewis and respectfully joins with Representative Dottie J. Sims in paying tribute to the life of this esteemed lady, a retired employee of Nationwide Uniforms in Hodgenville and a faithful member of the Eastern Star and the Mount Moriah Baptist Church in Mount Sherman. Preceded in death by her father, William Woodard Haley; mother, Gladys Noe Slayton; step-father, Willie Slayton; husband, Roscoe Lewis; and, sister, Dora Joyce Thompson, she is survived by her beloved children, Judell Nunn and Wayne Lewis; siblings, Geraldine Geary, Rita Bratcher, Thomas Slayton, Johnny Slayton, and Sammy Slayton; grandchildren, Angela Miller, Rhonda Blair, Michael Nunn, Timmy Lewis, and Tommy Lewis; great-grandchildren, Devin Sherrard, Dalton Nunn, Brittany Blair, and Emily Miller; and, a host of other family members, friends, and loved ones. Mary B. Lewis is remembered on this day for the many and generous contributions she made to her family and community and will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this ninth day of March, in the year two thousand and four.

Legislative Citation No. 72 was adopted without objection.

Representative Webb moved the adoption of the following **HR 233**:

HR 233, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Frank P. Rice Sr.

With deepest respect and admiration, we pay homage and tribute to Frank P. Rice Sr., and we pause in silent reverence for his soul.

WHEREAS, Frank P. Rice Sr. was born on October 4, 1920, a native of Carter County, Kentucky, and he traversed these earthly bounds on February 24, 2004; and

WHEREAS, Frank P. Rice Sr. was the loving son of the late Dixie Lee and Walter Campbell Rice; he was the devoted husband of 56 years to Helen Elizabeth Gollihue Rice; he was the loving father of three sons, John Rice of Carter Caves Road, Joed Rice of Rush, and Frank P. Rice Jr. of Grayson, and a daughter, Pam Hall of Winchester; he was the proud grandfather of six grandchildren and the proud great-grandfather of a great-grandchild; and he also leaves behind a loving sister, Susanna Piantoni of Hamilton Square, New Jersey, and a special cousin, Jim Rice of Richmond, Virginia; and

WHEREAS, Frank P. Rice Sr. served his country with honor and distinction in the United States Army Air Corps during World War II; and

WHEREAS, Frank P. Rice Sr. was an esteemed member of the Carter County community, where he was a member of the United Methodist Church of Grayson; he was a retired engineer from the Kentucky Transportation Cabinet after 31 years of service; in 1999 he served as assistant Judge/Executive of Carter County; he was a past chairman of the Carter County Democratic party for 12 years; he was a lifetime member of the Disabled American Veterans and a lifetime member of the National Association of Civilian Conservation Corps; and

WHEREAS, Frank P. Rice Sr. was a member of Grand Lodge of Kentucky, F&AM, Scottish Rite of Free masonry, S.J.,U.S.A., El Hasa Shriner's, and Ashland Commandery No. 28; he was a member of the Carter County Shriner's Club, York Rite of the Free Masonry, Masonic Trimble Lodge No. 145 in Grayson, Grand Chapter of Kentucky RAM, Grand Council of Kentucky, R&SM, the Rocky Mountain Horse Association, and he was a member of the Honorable Order of Kentucky Colonels;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow at the passing of Frank P. Rice Sr., and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Frank P. Rice Sr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Helen Elizabeth Gollihue Rice, 72 Bucksaw Junction, Grayson, Kentucky 41143.

There being no objection, **HR 233** was adopted.

Representative Edmonds moved the adoption of the following **HR 231**:

HR 231, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Michael Lynn Moreland.

With deepest respect and admiration, we pay homage and tribute to Michael Lynn Moreland, and we pause in silent reverence for his soul.

WHEREAS, Michael Lynn Moreland was born on January 8, 1956, a native of Estill County, Kentucky, and he traversed these earthly bounds on February 22, 2000; and

WHEREAS, Michael Lynn Moreland was the loving son of Fred and Ruby Walling Moreland; he was the devoted husband of Ann Higgenbotham Moreland; he was the loving father of a son, John David Moreland of Louisville, and a daughter, Amanda Lynn Moreland of Irvine; he was the proud grandfather of a granddaughter, Wynne Moreland; he was the proud uncle of a niece, Courtney Nichole Shelton, and two nephews, Jeremy Moreland and Joshua Walling; and he also leaves behind three loving brothers, David Moreland, Freddy Moreland, and Charles Moreland, all of Irvine, and a loving sister, Lisa Moreland Shelton of West Virginia; and

WHEREAS, Michael Lynn Moreland graduated from Estill County High School; and he graduated from both the University of Kentucky College of Business and the University of Kentucky College of Law; and

WHEREAS, Michael Lynn Moreland was an esteemed member of the Estill County community, where he was a member of the Wisemantown United Methodist Church; he had practiced law since 1982, and he represented the City of Irvine and the Estill County Board of Education; and

WHEREAS, the passing of Michael Lynn Moreland has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Michael Lynn Moreland, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Michael Lynn Moreland.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Fred Moreland, 417 Broadway Street, Irvine, Kentucky 40336.

There being no objection, **HR 231** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 234, by Representatives Farmer and Pasley: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rachel Elaine Sutherland.

HR 235, by Representative Coleman: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nicholas P. Beasley.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 181, 171**

Agriculture and Small Business: **HB 663, 710, HJR 218, HCR 220, SB 146, SCR 93**

Transportation: **HB 29, 625, 696, HJR 212, HCR 60, HB 313, 141, HR 225, HB 191**

Report of Committees

The Committee on Seniors, Military, and Public Safety reported **HCR 206, HCR 223, SB 55,** and **SB 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 206, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested that the Legislative Research Commission establish a permanent committee on veterans' affairs; and

WHEREAS, the Legislative Research Commission created the Subcommittee on Veterans' Affairs in 1984 and each interim thereafter; and

WHEREAS, the nearly 100 state and nationally affiliated veterans organizations, representing 367,000 Kentucky veterans, have relied upon the Subcommittee on Veterans' Affairs to inform legislators of their special concerns and needs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is requested to reestablish a Subcommittee on Veterans' Affairs to operate during the 2004 interim and present recommendations to the Kentucky General Assembly.

Section 2. It is recommended that the subcommittee be appointed by the Legislative Research Commission.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof.

HCR 223, A CONCURRENT RESOLUTION urging the House Armed Services Committee as well as the entire United States Congress to adopt H.R. 327 awarding a Medal of Honor posthumously to First Lieutenant Garlin Murl Conner.

WHEREAS, Lieutenant Garlin Murl Conner was a native of Clinton County, Kentucky, who served with distinction and valor in the United States Army during World War II; and

WHEREAS, Kentucky Congressman Ed Whitfield introduced H.R. 327 to the 108th Congress to bestow this highly deserved honor on Lieutenant Garlin Murl Conner; and

WHEREAS, Lieutenant Garlin Murl Conner is Kentucky's most decorated war hero, who served on the front lines for over eight hundred days in eight major campaigns; he was wounded seven times but returned to combat and continued to fight on the front lines after each wound; and

WHEREAS, during World War II, over forty 3rd Division soldiers received Medals of Honor, more than any other Division; however, Lieutenant Garlin Murl Conner was not awarded the Medal of Honor due to an oversight and failure to process the paperwork; and

WHEREAS, Lieutenant Conner served in the 3rd Infantry Division with Audie L. Murphy, America's most decorated hero of all wars; as compared to Audie L. Murphy, Lieutenant Conner was awarded more Silver Stars for acts of valor, fought in more campaigns, served on the front lines longer, and was wounded more times; he was awarded many honors including the Distinguished Service Cross, the Silver Star with three Oak Leaf Clusters, the Bronze Star, the Purple Heart with six Oak Leaf Clusters, and other medals; and

WHEREAS, on June 20, 1945, Lieutenant Conner was awarded the Croix de Guerre, the French Medal of Honor, that was also awarded to Sergeant Alvin C. York, America's most decorated World War I soldier, who was a friend of Lieutenant Conner and lived a few miles from Lieutenant Conner's home on the Kentucky-Tennessee border; and

WHEREAS, Major General Lloyd B. Ramsey (Ret.), who was Lieutenant Conner's battalion commander during combat in World War II, is still living and has signed the necessary documents for awarding the Medal of Honor to Lieutenant Conner; in 1945, Major General Ramsey wrote that Lieutenant Conner was "one of the outstanding soldiers of this war, if not *the* outstanding....I've never seen a man with as much courage and ability as he has"; and

WHEREAS, Stephen Ambrose, America's foremost World War II historian, founder of the D-Day Museum in New Orleans, Louisiana, and author of many books, wrote on November 11, 2000, "I am in complete support of the effort to make Lieutenant Garlin M. Conner a Medal of Honor recipient. What Lieutenant Conner did in stopping the German assault near Houssen, France in January 1945 was far above the call of duty. I've met and talked at length with many Medal of Honor recipients and am sure they would all agree that Lieutenant Conner more than deserves the honor of joining them"; and

WHEREAS, on April 3, 2001, 3rd Infantry Division leaders named the new EAGLE BASE in Bosnia-Herzegovina after Lieutenant Conner because of his gallantry in World War II and because "It's a company-grade forward operating base named after a soldier with a company-grade rank"; and

WHEREAS, Richard Chilton, a former Green Beret from Genoa City, Wisconsin, has been on a mission since 1996 to have the Medal of Honor awarded to Lieutenant Conner; his research has documented that Lieutenant Conner is one of the great combat heroes of World War II, equal in every way to Audie L. Murphy; Chilton has made presentations to dozens of schools about Lieutenant Conner's war record and has copies of over 2,500 letters written by students to President George W. Bush requesting the Medal of Honor be awarded; after reviewing Chilton's information, a host of former war veterans have written Congress requesting passage of H.R. 327 to award the Medal of Honor to one of America's greatest citizen soldiers, Lieutenant Garlin Murl Conner;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the House Armed Services Committee as well as the entire United States Congress to adopt H.R. 327 awarding a Medal of Honor posthumously to First Lieutenant Garlin Murl Conner.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution to: Congressman Duncan Hunter, Chairman of the Armed Services Committee; the Clerk of the House of Representatives of the United States; the Clerk of the Senate of the United States; each member of the Kentucky Congressional Delegation; and to the widow of 1st Lieutenant Garlin Murl Conner, Mrs. Pauline W. Conner, Route 1, Box 208, Albany, Kentucky 42602.

SB 55, AN ACT relating to homeland security and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.224 is amended to read as follows:

(1) The Office ***of Homeland***~~[for]~~ Security~~[Coordination]~~ is hereby created in the Department of Military Affairs. The Office ***of Homeland***~~[for]~~ Security~~[Coordination]~~ shall be headed by an executive director who shall be appointed by the Governor upon the recommendation of the adjutant general.

(2) The Office ***of Homeland***~~[for]~~ Security~~[Coordination]~~ shall coordinate a comprehensive statewide security strategy. The Office ***of Homeland***~~[for]~~ Security~~[Coordination]~~ shall coordinate the executive branch's efforts to secure and protect personnel, assets, and facilities within the Commonwealth of Kentucky.

(3) *The Office of Homeland Security shall identify and maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.*

(4) (a) Not later than October 1 of each year, each department headed by an elected officer, as identified in KRS 12.020 I., each cabinet headed by an appointed officer, as identified in KRS 12.020 II., and each department headed by an appointed officer, as identified in KRS 12.020 III., shall submit to the Office of Homeland Security a record of all federal homeland security funding, including grants, received during the state fiscal year starting with the fiscal year ending June 30, 2004. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(b) Not later than August 1 of each year, each city, county, urban-county, charter county, consolidated local government, and special taxing district shall submit to its area development district a record of all federal homeland security funding, including grants, received during the state fiscal year by the city, county, urban-county, charter county, consolidated local government, special taxing district, or a public agency thereof, starting with the fiscal year ending June 30, 2004. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.

(c) Not later than August 15 of each year, each area development district shall group the records required under paragraph (b) of this subsection by county and submit them to the Department for Local Government.

(d) Not later than September 15 of each year, the Department for Local Government shall submit the records received under paragraph (c) of this subsection to the Office of Homeland Security.

(5) The Office of Homeland Security, area development districts, and Department for Local Government shall educate entities that report under this section about their responsibilities under this section. If an entity is late in reporting under this section, the Office of Homeland Security, an area development district, or the Department for Local Government shall remind that entity of its reporting requirements under this section.~~[The Office for Security Coordination shall maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.~~

~~(a) Not later than August 15 of each year, each department headed by an elected officer, as identified in KRS 12.020 I., each cabinet headed by an appointed officer, as identified in KRS 12.020 II., and each department headed by an appointed officer, as identified in KRS 12.020 III., shall submit to the Office for Security Coordination a record of all federal homeland security funding, including grants, received by the cabinet or department during the fiscal year starting with the fiscal year ending June 30, 2003. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.~~

~~(b) 1. Not later than August 15 of each year, the Department for Local Government shall submit to the Office for Security Coordination a record of all federal homeland security funding, including grants, received by each city, county, urban county, charter county, and consolidated local government, including public safety agencies thereof, within Kentucky during each fiscal year starting with the fiscal year ending June 30, 2003. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount. The Department for Local Government shall group the units of local government by area development district.~~

~~2. Not later than August 1 of each year, each area development district shall submit to the Department for Local Government a record of all federal homeland security funding, including grants, received by each city, county, urban county, charter county, and consolidated local government, including public safety agencies thereof, within that area development district during each fiscal year starting with the fiscal year ending June 30, 2003. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.~~

~~(c) Not later than September 1 of each year, the Office for Security Coordination shall submit the records gathered under this subsection to the Auditor of Public Accounts.]~~

Section 2. KRS 39A.287 is amended to read as follows:

The adjutant general, as executive head of the Department of Military Affairs and the Division of Emergency Management, utilizing federal funds and existing agency funds, shall:

(1) Establish and chair an interagency working group comprised of state and private agencies to help identify risks and needs and make a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(2)~~[Collaborate with state and participating private agencies to submit a written preliminary report prior to December 31, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection regarding the findings of the assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber~~

~~terrorism;~~

~~(3)~~] Develop and implement statewide strategies to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism based upon the information obtained in the needs assessment;

(3)[~~(4)~~]Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation and advice, or any other services needed to respond to these incidents; and

(4)[~~(5)~~] (a) ***Each year on or before October 15, submit a written report to the Governor, the Auditor of Public Accounts, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection. The written report shall:***

1. Assess the Commonwealth's preparedness to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, and cyber terrorism;

2. Identify the priority of needs, areas of improvement, and the overall progress made with regard to the Commonwealth's preparedness; and

3. Provide a record of all federal homeland security funding, including grants, gathered under Section 1 of this Act during the previous state fiscal year ending June 30, as well as any other relevant homeland security funding information gathered by the Office of Homeland Security. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount[~~Annually assess and update the capability for readiness specified in this section, subject to the continued availability of federal and agency funds. The assessment shall identify the priority of needs, areas of improvement, and the overall progress made in attaining the goals and needs identified in the initial study and in its annual report. The assessment shall also include the record of all federal homeland security funding, including grants, gathered under KRS 36.224(3) since the last annual assessment as well as any other relevant homeland security funding information gathered by the adjutant general and the Office for Security Coordination. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount. The report shall be submitted to the parties specified in subsection (2) of this section and the Auditor of Public Accounts not later than September 15 of each year~~].

(b) The Auditor of Public Accounts may conduct examination of revenues and expenditures provided under the annual ***written report***[~~assessment and under KRS 36.224(3)(c)~~] and, if examination findings warrant, may conduct audits. No later than January 30, the Auditor shall submit all examination and audit reports to the Senate Veterans, Military Affairs, and Public Protection Committee and the House Seniors, Military Affairs, and Public Safety Committee.

Section 3. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development and recommendation of architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state agencies, and shall forward these to the chief information officer for final approval.

(3) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Department of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office ***of Homeland***[~~for~~] Security[~~ Coordination~~], Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(4) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(5) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(6) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(7) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(8) The committee may establish additional working groups as determined by the committee.

Section 4. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

(1) Office of Management and Administration, containing the:

    (a) Division of Administrative Services;

    (b) Division of Facilities;

    (c) Bluegrass Station Division;

    (d) Division of Air Transport; and

    (e) Logistics Operations Division;

(2) Division of Emergency Management;

(3) Office of the Chief of Staff for Federal Army Guard;

(4) Office of the Chief of Staff for Federal Air Guard;

(5) Office ***of Homeland***[~~for~~] Security[~~ Coordination~~];

(6) Kentucky Guard Youth Challenge Division; and

(7) Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 5. Whereas Kentucky's homeland security should be enhanced as fast as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 83, AN ACT relating to licenses to carry concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) ***1.*** Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application; ***or***

2. Is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form

only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS

199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) Each concealed deadly weapon instructor or instructor trainer shall notify the Department of Criminal Justice Training not less than fourteen (14) days prior to the beginning of concealed deadly weapon applicant or concealed deadly weapon instructor training of the time, date, and location at which the class will be conducted. The department, upon the request of a firearms instructor trainer or certified firearms instructor, may permit a class to begin on less than fourteen (14) days' notice. The notice need not contain the names of the students. The notice may be made by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the application. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than thirty (30) days after its receipt. Failure to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall be grounds for the Department of State Police to revoke the person's concealed deadly weapon license, following a hearing conducted pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The provisions of this section shall be deemed to be retroactive to March 1, 2002, and the following shall be in effect:

1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;

2. The Kentucky State Police may revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted pursuant to KRS Chapter 13B. Any action taken by the Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002; and

3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002, and July 15, 2002, shall have the time to respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.

The Committee on Natural Resources and Environment reported **HB 423, SB 37, SB 154,** with Committee Substitute attached thereto, **SB 222, SB 224,** and **SJR 3,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 423, AN ACT relating to the vehicle emission testing program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-740 is amended to read as follows:

(1) The cabinet may enter into an agreement with one (1) or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance, and operation of official vehicle emission inspection stations in the numbers and locations required to provide vehicle owners reasonably convenient access to inspection facilities.

(2) The cabinet shall be prohibited from entering into an agreement with any independent contractor who is engaged in the business of manufacturing, selling, maintaining or repairing vehicles and vehicle replacement or repair parts in the Commonwealth, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor.

(3) The agreement authorized by this section shall contain provisions relating to the following:

(a) That the Commonwealth shall not be required to purchase any asset or assume any liability if the agreement is not renewed;

(b) That the contractor is authorized to collect the inspection fee for a test in the amount fixed by the cabinet;

(c) That the Commonwealth shall be reimbursed by the contractor for not less than ten percent (10%) of the inspection fee, except for programs operated by air pollution control districts*. Effective September 1, 2004, from the Commonwealth's reimbursement from the contractor, the Commonwealth shall remit monthly to the county clerk twenty-five cents ($0.25) per vehicle registered in the county during the preceding month*;

(d) That reports and documentation shall be submitted to the cabinet if required concerning the operation of the official vehicle emission inspection stations; and

(e) That the cabinet has discretion to investigate the operation of the official vehicle emission inspection stations as the conditions and circumstances of the operation may indicate, and that the cabinet may revoke the contract if it finds that the stations are not operated in accordance with KRS 224.20-710 to 224.20-765 or that the contractor has failed or refused to submit records or documentation required by KRS 224.20-710 to 224.20-765.

(4) The agreement may contain any provisions deemed necessary by the cabinet for the administration or enforcement of KRS 224.20-710 to 224.20-765.

SB 37, AN ACT relating to mines and minerals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department of Mines and Minerals;

(h) "Department" means the Department of Mines and Minerals;

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(n) "High voltage" means any voltage of one thousand (1,000) volts or more;

(o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(r) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(s) "Low voltage" means up to and including six hundred sixty (660) volts;

(t) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(u) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(v) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(w) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(x) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(y) "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(z) "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(aa) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ab) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ac) "Slope" means an inclined opening used for the same purpose as a shaft;

(ad) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ae) "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(af) "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ag) "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(ah) "Working place" means the area of a coal mine inby the last open crosscut; [~~and~~]

(ai) "Working section" means all areas of a coal mine from the loading point to and including the working faces***;***

(aj) "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 ***and shall not apply to electrical facilities owned, operated or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property***.

Section 2. KRS 352.220 is amended to read as follows:

For purposes of this section, "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the Commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "Suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

(1) The following shall apply to underground installations:

(a) ***Nonconductive or insulated materials shall be used when trailing cables or high voltage feeder cables are suspended***[~~On all haulage roads, landings, and partings where men are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;~~

~~(b) All machine feed wires shall be placed on insulators which shall be so placed as to prevent the wires coming in contact with the coal;~~

~~(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected from the persons coming in contact therewith, as provided in paragraph (a) of this subsection~~];

(b)[~~(d)~~] ***Suitable circuit interrupting devices***[~~All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as provided for in paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit~~

~~breakers~~] shall be provided *for all power circuits and equipment*[~~to control the current~~] at the mine[~~, and all important sections in the mine~~];

(c)[~~(e)~~] All power wires and cables[~~ in hoisting shafts or manway compartments~~] shall be properly insulated[~~, substantially fixed,~~] and[~~ well~~] protected *by proper installation or guarding*;

(d)[~~(f)~~] Ground wires for[~~ low voltage~~] circuits shall *have a total cross-sectional area of not less than one-half (1/2) the power conductor*[~~be at least one-half (1/2) as large as the circuit wires~~];

(e)[~~(g)~~] Extra length or long trailing cables shall be spread out in long open loops *or in a figure-eight configuration* on *a* clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables[~~ in~~] suspended *in* long *open* loops shall be acceptable;

(f)[~~(h)~~] One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment.[~~ Temporary~~] Splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. *Splices made in cables shall provide continuity of all components*[~~Trailing cables or hand cables which have exposed wires or which have splices that heat and spark under load shall not be used~~];

(g)[~~(i) Single conductor trailing cables shall not be used on cutting machines;~~

~~(j)~~] Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;

(h)[~~(k)~~] The frames of hand-held electrically driven tools[~~ and portable sump pumps~~] shall be properly grounded *or double-insulated by design.*[~~, and~~] The *frames of all pumps shall be properly grounded.* Hand-held tools and *all*[~~portable~~] pumps shall be properly protected by *suitable* fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;

[~~(l) All pump frames and all pipe lines shall be grounded to the rail or the grounding system at two hundred (200) foot intervals, except nonmetallic pipes or pipes using insulated type couplings or pipes installed remotely from track or power systems;~~

~~(m) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross bonds shall be installed not to exceed two hundred (200) foot intervals along the track;~~]

(i)[~~(n)~~] All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work *under* or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with[~~ trolley wires and~~] other[~~ low voltage~~] circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal *conductor not smaller than No. 10 (AWG)* or *an insulated* external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit*. All cables shall be suitable for the current and voltage and shall be properly maintained*;

(j)[~~(o)~~] *Power circuits*[~~High voltage cables~~] shall have *suitable* disconnecting *devices and short-circuit*[~~switches, overload~~] protective devices[~~, and lightning arresters~~] at or near the *supply*[~~outside~~] end of the *circuit. Suitable disconnecting devices shall be provided at the beginning of all branch circuits*[~~cable~~];

(k)[~~(p)~~] *Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or be equipped with a suitable fire suppression system.*

1. When a noncombustible structure or area is used, these installations shall be:

  - *a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or*
  - *b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen; or*
  - *c. Ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke.*

2. The sensored used for monitoring shall de-energize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when any of the following occurs:

  - *a. The temperature in noncombustible structure reaches one hundred sixty-five (165) degrees Fahrenheit;*
  - *b. The carbon monoxide concentration reaches ten (10) parts per million above the ambient level*

for the area; or

c. The optical density of smoke reaches 0.022 per meter.

3. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly.

4. When a fire suppression system is used, the installation shall be:

a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or

b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner.

5. All monitoring systems used to monitor intake air ventilating battery charging stations under subparagraphs 1. and 4. of this paragraph shall be done with sensors not affected by hydrogen.

6. This paragraph shall not apply to:

a. Rectifiers and power centers with transformers that either are dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats;

b. Submersible pumps;

c. Permissible pumps, and associated permissible switchgear;

d. Pumps located on or near the section that are moved as the working section advances or retreats; or

e. Small portable pumps~~[Permanent battery charging stations, permanent pump installations, motor generator sets, rotary converters, and oil filled transformers and switches used underground shall be housed in fireproof enclosures ventilated by a separate split of air direct to the main return]~~. Underground stations containing transformers or circuit breakers filled with ***flammable***~~[inflammable]~~ oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture ***occurs***~~[occur]~~, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with ***nonflammable***~~[noninflammable]~~ liquid or inert gas. ~~[Sectional type]~~Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places ***outby the***~~[out by]~~ last open crosscuts;

(l)~~[(q)]~~ ***Electrically powered***~~[All mine]~~ locomotives shall be ***provided with suitable electrical protective devices***~~[fused or otherwise protected at the switch or at the nip]~~;

(m)~~[(r)]~~ Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with ***start and stop*** controls at ***intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible***~~[locations recommended by the mine inspector. This does not prevent the use of belting which is being used on June 16, 1972, but the use of rubber belting shall be under such conditions as may be prescribed by the commissioner]~~;

(n)~~[(s)]~~***Communication wires and cables***~~[Telephone lines]~~ shall be ***adequately insulated and protected by proper installation or guarding***~~[provided with lightning arresters where the lines enter the mine and at the boxes on the outside]~~;

(o)~~[(t)]~~ Telephone~~[lines crossing trolley]~~ wires shall be ***provided with lightening arresters where the wires enter the mine and at the buildings on the surface***~~[carefully guarded in a nonconductive conduit]~~;

(p)~~[(u)]~~ Insulating mats shall be placed in front of ***disconnecting devices***~~[switchboards, beside stationary motors, in decks of locomotives,]~~ and all electrical installations where required;

(q)~~[(v)]~~ Ground wires in trailing cables shall be tested ***weekly***~~[periodically]~~ for open circuit and high resistance~~[joints]~~;

(r)~~[(w)]~~ Power circuits in tipples, buildings, cleaning plants, etc., and all ***underground***~~[inside]~~ electrical circuits shall be deenergized when not in use over a long period;~~[and]~~

(s)~~[(x)]~~***All underground power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them, or if those persons are unavailable, by a person authorized by***

the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustment;

(t) Where electric circuits cross over or pass under belt conveyors the wiring shall be *suitable* protected*; and*

(u) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust[~~ by conduit~~].

(2) The following shall apply to *trolley wires and trolley feeder wires:*

(a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6 1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;

(b) All machine feed conductors shall be placed on suitable insulators which shall be so placed as to prevent the conductors coming in contact with combustible or conductive materials;

(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected against persons coming in contact therewith, as required by paragraph (a) of this subsection;

(d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as required by paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;

(e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track; and

(f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip.

(3) The following shall apply to surface installations:

(a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;

(b) *Electrical*[~~Protective barriers shall be so constructed between high voltage wires and telephone wires, trolley circuits, and any other similar conveyor wires or circuits as to prevent their failure by the falling of the high tension lines across the other circuits, wires, or conveyors;~~

~~(c) On four (4) wire circuits, the fourth or neutral wire terminating at transformers, or elsewhere, shall be of substantial construction to minimize any possibility of the wire being severed or damaged mechanically;~~

~~(d) On low voltage~~] circuits, wires *and cables* shall be supported on insulators except when cables[~~ made for use without insulators~~], which are of a design that can be safely used without insulators, are used;

(c)[~~(e)~~] Lightning arresters shall be installed on all *ungrounded, exposed power conductors and telephone wires*[~~circuits~~] entering a mine, regardless of voltage. Overload protection and disconnect switches of *suitable* sizes and ratings approved by the department shall also be provided *except that they shall not be required of telephone wires*;

(d)[~~(f)~~] Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;

(e)[~~(g)~~] All transformer tanks shall be effectively grounded;

(f)[~~(h)~~] Switch boxes, contactors, controllers, and all other similar devices shall be kept free of *significant*[~~dust~~] accumulations *of combustible dust that create a fire hazard*; and

(g)[~~(i)~~] Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height *; and*

(h) All surface power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by persons who installed them, or if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify they are de-energized before any work is performed. When practical, confirmation that the voltage detector is operating satisfactorily shall be made before each test.

(4)[~~(3)~~] (a) Notwithstanding any provisions of subsections (1)*,*[~~ or~~] (2)*, or (3)* of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be

constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1)*,*[~~ or~~] (2)*, or (3)* of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1)*,*[~~ or~~] (2)*, or (3)* of this section; and

(b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

Section 3. KRS 352.230 is amended to read as follows:

For purposes of this section: "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the Commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "Suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

(1) All electrical equipment *and all other electric driven equipment except intrinsically safe equipment which is taken into or used inby the last open crosscut and in return airways*[~~ purchased for face use~~] in underground mines shall be[~~ of the~~] permissible[~~ type~~]. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.

(2)[~~ No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment and shall have a minimum of forty-five (45) days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate before using a flame safety lamp underground. The examination shall be given by the mine inspector, blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.~~

~~(3) No electric face equipment shall be brought inby the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the electric equipment shall not be taken in until the gas is removed.~~

~~(4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%), the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.~~

~~(5)~~] Headlights shall be *properly* installed and maintained in a *workmanlike manner*[~~permissible~~] and working order on all mobile and face equipment at all times the equipment is in operation.

(3)[~~(6)~~] Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.

(4)[~~(7)~~] At all times when mining equipment is being used, it shall be maintained in safe working order. *Electrical equipment and circuits shall be examined and tested in a suitable manner by certified electricians to ensure safe working order.*

(5) Combustible materials, grease, lubricants, or flammable liquids shall not be allowed to accumulate where they can create a fire hazard.

(6) All electrical equipment utilized in intake airways outby the last open crosscut shall be maintained in safe operating condition and in accordance with the manufacturer's instructions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

For purposes of this section, "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the Commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "Suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

(1) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas and shall have a minimum of forty-five (45) days of actual mining experience before they are permitted to have charge of electric face equipment. Safety committeemen, shotfirers, and others whose duty may require them to make inspections for gas shall undergo and pass an examination or possess a mine foreman's certificate before using an approved multi-gas detection device underground. The examination shall be given by the mine inspector. Blank forms

for the examination shall be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.

(2) No electric face equipment shall be brought inby the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using an approved gas detection device or instrument in the place where the equipment is to work unless the inspection is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas in excess of one percent (1%) is found in the place, the electrical equipment shall not be taken in until the gas is removed.

(3) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If methane gas is found in excess of one percent (1%) at any time, the power shall be de-energized from the equipment and left de-energized until the gas is reduced to less than one percent (1%) and the place determined safe by a foreman.

SB 154, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development,[~~ the Public Protection and Regulation Cabinet,~~] the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet,[~~ the Labor Cabinet,~~] the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
   - (a) Secretary of State.
   - (b) Board of Elections.
   - (c) Registry of Election Finance.
4. Department of Law.
   - (a) Attorney General.
5. Department of the Treasury.
   - (a) Treasurer.
6. Department of Agriculture.
   - (a) Commissioner of Agriculture.
   - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
(a) Department of State Police.
(b) Department of Criminal Justice Training.
(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.
3. ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department ***of Labor***[~~for Surface Mining Reclamation and Enforcement~~].
(f) ***Department of Public Protection***[~~Office of Legal Services~~].
(g) Office of ***the Secretary***[~~Information Services~~].
(h) ***Office of Legal Services.***
(i) Office of Inspector General.
4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6.[~~Public Protection and Regulation Cabinet:~~
~~(a) Public Service Commission.~~
~~(b) Department of Insurance.~~
~~(c) Department of Housing, Buildings and Construction.~~
~~(d) Department of Financial Institutions.~~
~~(e) Department of Mines and Minerals.~~
~~(f) Department of Public Advocacy.~~
~~(g) Department of Alcoholic Beverage Control.~~
~~(h) Kentucky Racing Commission.~~
~~(i) Board of Claims.~~
~~(j) Crime Victims Compensation Board.~~
~~(k) Kentucky Board of Tax Appeals.~~
~~(l) Backside Improvement Commission.~~
~~(m) Office of Petroleum Storage Tank Environmental Assurance Fund.~~
~~(n) Department of Charitable Gaming.~~
~~(o) Mine Safety Review Commission.~~
~~7.~~] Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
  (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.

(j) Office of Human Resource Management.

7.[~~8.~~] Cabinet for Health Services.

(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

8.[~~9.~~] Finance and Administration Cabinet:

(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

[~~10. Labor Cabinet:~~

~~(a) Department of Workplace Standards.~~
~~(b) Department of Workers' Claims.~~
~~(c) Kentucky Labor-Management Advisory Council.~~
~~(d) Occupational Safety and Health Standards Board.~~
~~(e) Prevailing Wage Review Board.~~
~~(f) Workers' Compensation Board.~~
~~(g) Kentucky Employees Insurance Association.~~
~~(h) Apprenticeship and Training Council.~~
~~(i) State Labor Relations Board.~~
~~(j) Kentucky Occupational Safety and Health Review Commission.~~
~~(k) Office of Administrative Services.~~
~~(l) Office of Information Technology.~~
~~(m) Office of Labor-Management Relations and Mediation.~~

~~(n) Office of General Counsel.~~
~~(o) Workers' Compensation Funding Commission.~~
~~(p) Employers Mutual Insurance Authority.~~]
9.[~~11.~~] Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.
10.[~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.
11.[~~13.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
12.[~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.

(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) *Environmental and Public*[~~Natural Resources and Environmental~~] Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6)[~~ Public Protection and Regulation Cabinet.~~
~~(7)~~] Cabinet for Health Services.
(7)[~~(8)~~] Cabinet for Families and Children.
(8)[~~(9)~~] Finance and Administration Cabinet.
(9)[~~(10)~~] Tourism Development Cabinet.
(10)[~~(11)~~] Revenue Cabinet.
[~~(12) Labor Cabinet.~~]
(11)[~~(13)~~] Cabinet for Workforce Development.
(12)[~~(14)~~] Personnel Cabinet.

SECTION 4. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

There is established in the Office of the Secretary, an Office of Communications and Public Outreach, an Office of Legislative and Intergovernmental Affairs, and an Office of Administrative and Information Services. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The Workers' Compensation Board shall be attached to the secretary's office for administrative purposes only.

SECTION 5. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary of the cabinet to protect and enhance the state's natural resources and environment, the cabinet and the secretary of the cabinet are also vested with the powers and duties, previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by the KRS or executive order of the Governor as ratified by the General Assembly.

Section 6. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and

geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-five (25)***[~~twenty-six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;

14.[~~The secretary of the Public Protection and Regulation Cabinet or his designee;~~

~~15.~~] The secretary of the Tourism Development Cabinet or his designee;

15.[~~16.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

16.[~~17.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

17.[~~18.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

18.[~~19.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

19.[~~20.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

20.[~~21.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

21.[~~22.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

22.[~~23.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 7. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, ***executive directors,*** principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; and

(h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the

executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 8. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services

1. Office of Certificate of Need

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children

1. Department for Community Based Services

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

2. Department for Disability Determination Services

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e)[~~Labor Cabinet~~

~~1. Department of Workers' Claims~~

~~a. Workers' compensation hearings conducted under authority of KRS Chapter 342~~

~~(f)~~] ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet

1. Department for ***Natural Resources***[~~Surface Mining Reclamation and Enforcement~~]

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

3. Office of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f)[~~(g)~~] Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(g)[~~(h)~~] ***Department of*** Public Protection[~~ and Regulation Cabinet~~]

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(h)[~~(i)~~] Cabinet for Workforce Development

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(i)[~~(j)~~] Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(j)[~~(k)~~] State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 9. KRS 42.066 is amended to read as follows:

(1) The Division of Occupations and Professions shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy,[~~ Kentucky Athletic Commission,~~] the State Board of Examiners and Registration of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the State Board for Proprietary Education, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.

(2) To the extent that the division provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.

(3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission.

(4) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

Section 10. KRS 45A.610 is amended to read as follows:

[~~(1)~~]By January 1, 1991, a minimum of fifteen (15) percent of the purchases of garbage can liners by state agencies shall be starch-based plastic garbage can liners. The percentage shall increase by five (5) percent annually until fifty (50) percent of the purchase of garbage can liners are purchases of starch-based plastic garbage can liners.

[~~(2) The Natural Resources and Environmental Protection Cabinet shall perform tests and experiments to determine whether or not it is advantageous for the Commonwealth to require use of starch-based biodegradable products or containers. The cabinet shall report its findings to the 1992 Regular Session of the General Assembly.~~]

Section 11. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) (a) The fiscal court of a county or the urban-county council of an urban-county government may license a solid waste landfill located within the county or urban-county area. The license fee may be set at not less than one cent ($0.01) but no more than fifty cents ($0.50) per ton of waste received by the landfill or set at up to five percent (5%) of gross receipts of the landfill.

(b) The license fee as set may be increased by an amount up to one-quarter (1/4) of the base fee per ton or on gross receipts of waste received at the landfill which originates from outside of the planning area. For purposes of this section, planning area shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multicounty area, or waste management district. However, before a fee differential may be imposed the county or urban-county government shall demonstrate that the differential is reasonably related to additional government services which must be undertaken because of the landfilling of nonplanning area waste. This demonstration may be made by showing an unplanned for reduction in waste disposal capacity and a need to provide for future disposal capacity or impacts on roads, litter control or emergency services.

(c) The proceeds from the license fee shall be used to defray the government services provided to the landfill, necessary clean-up operations or emergency responses related to operation of the landfill or transporting waste to the landfill, necessary maintenance, improvement or construction of roads, and for the general revenue requirements of the county or urban-county government where the landfill is located.

(d) ~~[Five percent (5%) of the license fee shall be remitted annually to the Natural Resources and Environmental Protection Cabinet until July 30, 1990. The cabinet shall use the amount received for state solid waste management activities.]~~Ten percent (10%) ***of the license fee*** shall be remitted annually in equal shares to all counties and urban-county governments in the planning area served by the landfill from where the fees originated which shall be used for local solid waste planning and plan implementation. Counties or urban-county governments desiring to impose the fee provided for herein are authorized to accept payments in lieu of the fee under duly-executed contracts between the county and the permitted site or facility. The fee provided for in this subsection shall be in lieu of the provisions of subsection (1). Special waste, as defined in KRS 224.50-760, except for waste from sanitary wastewater treatment facilities, shall be exempt from this subsection.

(3) In the case of hazardous waste facilities involving land disposal, including a regional integrated waste treatment and disposal demonstration facility as defined in KRS Chapter 224, the rate levied under this section shall be not more than five percent (5%) per annum of the gross receipts and shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to, the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

Section 12. KRS 224.10-020 is amended to read as follows:

(1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection,~~[and]~~ a Department ***of Labor and a Department of Public Protection***~~[for Surface Mining Reclamation and Enforcement]~~. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

(2) There is established within the Department for Natural Resources, a Division of Field Services, a Division of Permits, a Division of Mines and Minerals, a Division of Oil and Gas Conservation, and a Division of Abandoned Mine Lands. Each division shall be headed by a director appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, Section 27 of this Act. The directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(3) There is established within the Department of Labor, an Office of Occupational Safety and Health, an Office of Labor-Management Relations and Mediation, and an Office of Workplace Standards. Each office shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The following agencies are attached to the department for administrative purposes only:

(a) Kentucky Labor-Management Advisory Council;
(b) Occupational Safety and Health Standards Board;
(c) Prevailing Wage Review Board;
(d) Kentucky Employees Insurance Association;
(e) Apprenticeship and Training Council;
(f) State Labor Relations Board;
(g) Kentucky Occupational Safety and Health Review Commission;
(h) Workers Compensation Funding Commission;
(i) Employers Mutual Insurance Authority;
(j) Workers Compensation Advisory Council;
(k) Workers Compensation Nominating Commission; and
(l) Office of Workers' Claims.

(4) There is established within the Department of Public Protection, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Building, and Construction, an Office of Charitable Gaming, and an Office of Alcohol Beverage Control. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(5) The following agencies are attached to the Department of Public Protection for administrative purposes only:

(a) Public Service Commission;
(b) Kentucky Horse Racing Authority;
(c) Crime Victims Compensation Board;
(d) Board of Claims;
(e) Board of Tax Appeals;
(f) Kentucky Athletic Commission; and
(g) Office of Public Advocacy.

Section 13. KRS 224.10-040 is amended to read as follows:

(1) The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create[~~ such~~] positions*, to retain positions in effect prior to appointment as secretary,* and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The secretary shall designate a person to act as deputy for him in the exercise of his duties in his absence.

(2) All appointments to positions not in the classified service shall be made pursuant to KRS 12.050[~~ and such appointees shall be major assistants to the secretary and shall assist in the development of policy~~].

Section 14. KRS 224.10-050 is amended to read as follows:

The secretary shall establish the[~~ internal~~] organization of the cabinet not established *by statute or executive order of the Governor as ratified by the General Assembly*[~~in KRS 224.10-040~~] and shall divide the cabinet into such offices or divisions as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12. *The secretary may keep or revise any offices or divisions in place prior to appointment as secretary if keeping or revising the offices or divisions is not contrary to or conflict with the organization of the cabinet established by the KRS or executive order of the Governor as ratified by the General Assembly.*

Section 15. KRS 224.60-130 is amended to read as follows:

(1) [~~There is created within~~]The *Environmental and* Public Protection[~~ and Regulation~~] Cabinet, *Department for Environmental Protection, Division of Waste Management*[~~Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.~~

~~(2) The Office of Petroleum Storage Tank Environmental Assurance Fund~~] shall*, among its functions*:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the *division*[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks. The *division*[~~office~~] may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***division***[~~office~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***division***[~~office~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***division***[~~office~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The ***division***[~~office~~] may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the ***division***[~~office~~] on or before January 15, 2004. To insure cost effectiveness, the ***division***[~~office~~] shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***division***[~~office~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***division***[~~office~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2009. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2002, the ***division***[~~office~~] shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The ***division***[~~office~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the ***division***[~~office~~] regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the ***division***[~~office~~], for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The ***division***[~~office~~] shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***division***[~~office~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The ***division***[~~office~~] may collect soil or water samples or require storage tank owners or operators to split samples with the ***division***[~~office~~] for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the ***division***[~~office~~] to collect or split samples shall make the facility ineligible for fund participation;

(m) Have ***inspectors***[~~assurance fund auditors~~] on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the ***division***[~~office~~] schedule an ***inspector***[~~assurance fund auditor~~] to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an ***inspector***[~~auditor~~] fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the ***division***[~~assurance fund~~] no later than ten (10) days prior to the proposed date that an ***inspector***[~~auditor~~] is not available on the proposed date, in which event a representative of the ***division***[~~assurance fund~~] shall contact the operator and schedule a new date. If no ***inspector***[~~auditor~~] is present at the rescheduled date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter or by July 15, 2010, whichever is earlier. Claims received after July 15, 2010, are not eligible for reimbursement.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2004.

(2)[~~(3)~~] The ***division***[~~office~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(3)[~~(4)~~] The ***division***[~~office~~] may sue and be sued in its own name.

(4)[~~(5)~~] The ***division***[~~office~~] may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The ***division***[~~office~~] may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (2)(c) of this section.

Section 16. KRS 303.100 is amended to read as follows:

A burial association desiring to do business in this state shall file with the ***executive director of the office of insurance***[~~commissioner~~] a power of attorney as is required of insurance companies, designating the ***executive director***[~~commissioner~~] as the proper person upon whom process may be served.

Section 17. KRS 336.010 is amended to read as follows:

As used in ***this chapter***[~~KRS 336.010 to 336.160~~], unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department of ***Labor***[~~Workplace Standards~~] under the direction and supervision of the secretary of the ***Environmental and Public Protection***[~~Labor~~] Cabinet; and

(2) "Department" means Department of ***Labor***[~~Workplace Standards~~].

(3) "Secretary" means secretary of the Environmental and Public Protection Cabinet.

Section 18. KRS 336.015 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of ***the Department of*** Labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the[~~ commissioner and Department of~~] Labor ***Cabinet***.

(2) The ***Department of*** Labor[~~ Cabinet~~] shall consist of the ***Office of Occupational Safety and Health, the Office of Labor-Management Relations and Mediation, and the Office of Workplace Standards. Each of the offices shall be headed by***

an executive director who shall be appointed by the secretary with the approval of the Governor[~~Offices of the Secretary, General Counsel, Administrative Services, Information Technology, Labor Management Relations and Mediation; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission; and the Departments of Workplace Standards, and Workers' Claims. The commissioner of the Department of Workplace Standards and the Department of Workers' Claims within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet~~].

(3) The following agencies are attached to the department for administrative purposes only:

- ***(a) Kentucky Labor-Management Advisory Council;***
- ***(b) Occupational Safety and Health Standards Board;***
- ***(c) Prevailing Wage Review Board;***
- ***(d) Kentucky Employees Insurance Association;***
- ***(e) Apprenticeship and Training Council;***
- ***(f) State Labor Relations Board;***
- ***(g) Kentucky Occupational Safety and Health Review Commission;***
- ***(h) Workers' Compensation Funding Commission;***
- ***(i) Employers Mutual Insurance Authority; and***
- ***(j) Office of Workers' Claims.***

Section 19. KRS 336.020 is amended to read as follows:

(1) The ***Office***[~~Department~~] of Workplace Standards shall be headed by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of Employment Standards, Apprenticeship and Training; ***and*** Workers' Compensation Funds[~~; Occupational Safety and Health Compliance; and Education and Training for Occupational Safety and Health~~].

(2) The ***Office***[~~Department~~] of Workers' Claims shall be administered by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Information and Research, Security and Compliance, Administrative Law Judges, and ***Omsbudsman and Workers Compensation Specialists***[~~Insurance~~].

(3) The Office of Occupational Safety and Health shall be administered by an executive director and shall be divided for administrative purposes into the Division of Occupational Safety and Health Compliance and the Division of Education and Training for Occupational Safety and Health.

Section 20. KRS 336.030 is amended to read as follows:

The commissioner, with the approval of the ***Secretary of the Environmental and Public Protection Cabinet and the*** Governor, shall appoint necessary deputies, attorneys, statisticians, inspectors and other employees and fix their salaries according to law. These employees shall receive their actual necessary expenses.

Section 21. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the ***Department of*** Labor[~~ Cabinet~~] or Cabinet for Economic Development. The council may make recommendations to the Governor and the Legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The ***commissioner of the Department***[~~secretary~~] of Labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he shall act as the executive secretary of the council.[~~ The executive director of the Office of Labor-Management Relations and Mediation shall be responsible for the coordination of such staff and supplies.~~]

Section 22. KRS 338.015 is amended to read as follows:

As used in this chapter:

(1) "Employer" shall mean any entity for whom a person is employed except those employers excluded in KRS 338.021.

(2) "Employee" shall mean any person employed except those employees excluded in KRS 338.021.

(3) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(4) "Occupational safety and health hazard" means any practice or condition in a place of employment which may be deemed detrimental to the safety and health of employees.

(5) "Occupational injury or illness" means any abnormal condition or disorder of an employee caused by exposure to factors associated with his employment.

(6) "Board" means the Kentucky Occupational Safety and Health Standards Board established under this chapter.

(7) "***Executive Director***~~[Commissioner]~~" means the ***executive director***~~[commissioner]~~ of the ***Office of Occupational Safety and Health***~~[Kentucky Department of Workplace Standards]~~ under the direction and supervision of the ***commissioner of the Department of Labor***~~[secretary of the Labor Cabinet]~~.

(8) "Review commission" means the Kentucky Occupational Safety and Health Review Commission established under this chapter.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(10) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States government.

(11) "Office" means the Office of Occupational Safety and Health.

(12) "Commissioner" means the commissioner of the Department of Labor.

Section 23. KRS 338.161 is amended to read as follows:

(1) The ***Office of Occupational Safety and Health***~~[Department of Workplace Standards]~~ shall develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. Each employer shall make, keep and preserve, and make available to the ***executive director***~~[commissioner]~~ and the Secretary of the United States Department of Labor or the Secretary of the United States Department of Health and Human Resources, such records regarding his activities relating to this chapter as may be prescribed by regulation.

(2) The ***Office of Occupational Safety and Health***~~[Department of Workplace Standards]~~ shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter.

Section 24. KRS 338.181 is amended to read as follows:

The ***Office of Occupational Safety and Health***~~[Kentucky Department of Workplace Standards]~~ is empowered to administer the provisions of this chapter to employers, employees, and places of employment under the jurisdiction of the United States government pursuant to any agreement between the Commonwealth and the United States government. Pursuant to such agreement, the ***Office of Occupational Safety and Health***~~[Department of Workplace Standards]~~ is empowered to make employer reports and data available to the United States government.

Section 25. KRS 339.210 is amended to read as follows:

As used in KRS 339.220 to 339.450 "gainful occupation" does not include employment in farm work or in domestic service in a private home, nor occasional employment by a householder in connection with the household and not in connection with the householder's business or occupation, such as grass cutting or carrying ashes or similar casual domestic tasks, nor the delivery of newspapers on regularly scheduled routes, nor to employment as an actor or performer in motion pictures or theatrical productions, or in radio or television productions, nor to employment of minors by their own parents or persons standing in the place of a parent in occupations other than manufacturing, mining, or those found by the ***executive director of the Office of Workplace Standards***~~[commissioner of labor]~~ be particularly hazardous.

Section 26. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the Department ***for Natural Resources a***~~[the Division of]~~ Mine Safety Analysis ***program***.

(2) Persons employed in ***mine safety analysis***~~[the Division]~~ as underground or surface mine safety analysts shall satisfy the applicable requirements established in KRS 351.090.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The safety analyst shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The ***program administrator for mine safety analysis***~~[Division]~~ shall assist the Division of ***Mines and Minerals***~~[Miner Training, Education, and Certification]~~ in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his discretion assign safety analysts to all mines in the state taking into consideration such

factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the safety analysts in improving mine safety.

Section 27. KRS 353.530 is amended to read as follows:

(1) The Governor shall appoint, as director of ***the Division of*** Oil and Gas Conservation in the Department ***for Natural Resources***[~~of Mines and Minerals~~], a person who has, at the time of his appointment, at least five (5) years' experience in the exploration for or the production of oil or gas.

(2) It shall be his duty to administer the provisions of KRS 353.500 to 353.720 subject to the direction and supervision of the commissioner.

(3) Before taking office, the director shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate shall be filed in the office of the Secretary of State.

(4) No director shall, while holding office, acquire any financial interest, directly or indirectly, in any venture or activity for the exploration for or production of oil or gas in this Commonwealth.

Section 28. KRS 353.5901 is amended to read as follows:

(1) In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, a well operator shall submit to the ***Division of Oil and Gas Conservation***[~~department~~] an operations and reclamation proposal at the time of filing an application for permit to drill, deepen, or reopen a well. The proposal shall be filed on forms provided by the ***division***[~~department~~] and shall include:

(a) A proposal to prevent erosion of and sedimentation from the well site and all disturbed areas, including roads;

(b) A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks and other storage facilities, and any other information that may be required by the ***division***[~~department~~]. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities;

(c) A signed agreement by the surface owners of all disturbed areas to the operations and reclamation proposal; and

(d) Any additional information that the ***division***[~~department~~] may require.

(2) In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface and the surface owners of all disturbed areas have not signed agreements with the well operator agreeing to the operations and reclamation proposal, at the time of filing the application the well operator shall cause to be delivered to the surface owners of all disturbed areas who have not agreed to the operations and reclamation proposal, by certified mail, return receipt requested:

(a) A copy of the operations and reclamation proposal required by paragraph (a) of subsection (1) of this section, and the narrative description of land disturbances and plat required by paragraph (b) of subsection (1) of this section; and

(b) A notice to read as follows: "If you do not agree with the proposed use of your land by the well operator, the well operator may request mediation of your dispute by the General Counsel's Office of the ***Environmental and Public Protection Cabinet***[~~Department of Mines and Minerals~~]. If mediation is requested, and you decide to participate, each party to the mediation will be charged one hundred dollars ($100) to help cover the cost of mediation. You will be notified of the time and place for mediation, if the well operator chooses mediation, and of your right to participate."

The certified mail receipt, when returned, shall be filed by the well operator with the ***division***[~~department~~] and made part of the permit application.

(3) If the well operator has been unable to reach agreement with the surface owners of all areas to be disturbed in all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the permit required by this chapter shall not be issued until the dispute has been referred to mediation by the[~~General Counsel's~~] Office of ***Legal Services of*** the ***Environmental and Public Protection Cabinet***[~~Department of Mines and Minerals~~], and mediation has been concluded either by agreement between the parties or by a report of the mediator, in accordance with subsection (4) of this section.

(4) The well operator may request mediation any time after filing the permit application, and all parties participating in the mediation shall pay a nonrefundable fee of one hundred dollars ($100) to the Kentucky State Treasurer, which shall be for the sole use of the ***Division of Oil and Gas Conservation***[~~department~~] and shall be in addition to any money appropriated by the General Assembly for the use of the ***division***[~~department~~]. The ***division***[~~department~~] shall notify the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operation and reclamation plan of the date and time mediation shall be conducted by certified mail, return receipt requested. The ***division***[~~department~~] shall conduct mediation at the site proposed to be disturbed within fifteen (15) days from the date requested, if practicable. At

the mediation, the mediator will attempt to facilitate an agreement between the well operator and the surface owner. If an agreement is not forthcoming after mediation, the mediator shall, within five (5) days after mediation, issue a report to the director ***of oil and gas conservation*** recommending that the director ***of oil and gas conservation***:

(a) Accept the proposal as submitted by the well operator; or

(b) Accept the proposal with modifications set forth by the mediator.

(5) If an agreement between the well operator and the surface owners of all disturbed areas is not forthcoming after mediation, the mediator shall consider the following factors as to the reasonable use of the surface by the well operator in issuing a report to the director ***of oil and gas conservation***, which recommendations shall become permit conditions:

(a) The location of roads, gathering lines, and tank batteries;

(b) The timing of the operation, considering seasonal uses of the land by the surface owner and the need of the well operator to drill expeditiously;

(c) The impact on the other uses of the land by the surface owner, including the location of timber, houses, barns, ponds, crops, and other improvements;

(d) Whether the proposal includes a plan for timely, effective reclamation of all disturbed areas; and

(e) Any other information deemed appropriate by the mediator.

(6) The director ***of oil and gas conservation*** shall act upon the recommendation of the mediator within five (5) days of the receipt of the mediation report.

Section 29. KRS 353.630 is amended to read as follows:

(1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened, or reopened by reason of the spacing provisions of KRS 353.610, the ***Division of Oil and Gas Conservation***[~~department~~] shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The ***division***[~~department~~] shall require the development and operation of all pooled acreage as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.

(2) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the ***division***[~~department~~] shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. For purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the operator has complied with the publication requirements of KRS 353.640(1) with respect to the unknown or nonlocatable owners. The ***division***[~~department~~] shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.

(3) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the ***division***[~~department~~] shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. The ***division***[~~department~~] shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.

(4) No pooling as permitted by this section shall be ordered except:

(a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in KRS 353.610; and

(b) When a lessee or owner of an oil or gas interest in the tract shall request the pooling.

(5) No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or reopened:

(a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract pursuant to subsection (1), (2), or (3) of this section; and

(b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director ***of oil and gas conservation*** for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.

(6) Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

Section 30. KRS 353.640 is amended to read as follows:

(1) The operator shall provide a list to the ***Division of Oil and Gas Conservation***~~[department]~~ of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the ***division***~~[department]~~ for a pooling order. A pooling order shall be made only after the ***division***~~[department]~~ provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled after a hearing has been held. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:

(a) State that an application for a pooling order is being filed with the Division of Oil and Gas in the department;

(b) Describe any tract, or portion thereof, proposed to be pooled;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the operator at the published address and provide a copy of the notification to the director of the Division of Oil and Gas in the department within twenty (20) days of the date of publication.

(2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

(3) A pooling order shall establish a procedure for the owner of an operating interest who does not decide to become a participating operator to elect to either:

(a) Surrender, by means of sale or lease, the interest to a participating operator on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be determined by the director ***of oil and gas conservation***; or

(b) Share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

(4) An oil or gas owner whose identity and location remain unknown at the conclusion of a hearing concerning the entry of a pooling order for which public notice was given and whose interest is pooled pursuant to KRS 353.630(3) shall be deemed to have elected to lease the interest to the oil or gas operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (3) of this section.

(5) Except as provided in this subsection, an oil or gas owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the oil or gas interest to the oil or gas well operator in the manner established in subsection (4) of this section. If the holder of an operating interest has obtained the interest by lease or other agreement granting the right to conduct operations to anyone other than the holder of the oil and gas estate, and if the owner of the operating interest does not make an election under the pooling order, the holder of the operating interest shall be deemed to have elected to share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

(6) A person whose interest is subject to an oil or gas lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of subsection (3) of this section.

(7) A certified copy of any pooling order entered under KRS 353.500 to 353.720 shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

Section 31. KRS 353.650 is amended to read as follows:

(1) If one (1) or more of the owners of any operating interest in any portion of the pooled tract shall drill, deepen or reopen and operate, or pay the costs of drilling, deepening or reopening and operating a well for the benefit of another owner of an opening interest, as provided in the pooling order, then such owner or owners shall be entitled to the proceeds from the

share of production from the tracts or portions thereof pooled accruing to the interest of such other owner, exclusive of any royalty reserved in any lease or leases of such tracts or portions thereof or exclusive of one-eighth (1/8) of production attributable to all unleased tracts or portions thereof, until such proceeds equal the sums payable by or charged to the interest of the other owner plus a reasonable charge for interest on such sums.

(2) If a dispute shall arise as to the costs of drilling, deepening or reopening, and operating a well, the director ***of oil and gas conservation*** shall determine and apportion the costs.

Section 32. KRS 353.670 is amended to read as follows:

(1) All rules, regulations and amendments promulgated under KRS 353.500 to 353.720 shall be promulgated by the ***Division of Oil and Gas Conservation***[~~department~~] after notice and a hearing. At all hearings held to consider any rules, regulations or amendments thereto, any interested person shall be entitled to be heard.

(2) All hearings held under this section shall be held at such time and place as is specified by the ***division***[~~department~~], and according to rules and regulations promulgated under KRS 353.500 to 353.720. A written record of each hearing shall be kept, unless the keeping of a record shall be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under KRS 353.500 to 353.720.

(3) The director ***of oil and gas conservation***, or his representatives, shall attend all hearings under this section conducted by the ***division***[~~department~~].

(4) All rules, regulations and orders promulgated or issued under KRS 353.500 to 353.720 shall be in writing, shall be entered in full and indexed in books to be kept by the ***division***[~~department~~] for that purpose, shall be public records open for inspection at all times during office hours, and shall be filed in accordance with the provisions of KRS Chapter 13A. A copy of any rule, regulation or order, certified by the commissioner or director ***of oil and gas conservation***, shall be received in evidence in all courts of this Commonwealth without any further authentication thereof.

Section 33. KRS 224.01-400 is amended to read as follows:

(1) As used in this section:

(a) "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous, or semi-solid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. The substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers, or explosive, except that the term "hazardous substance" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section, and shall not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel, or mixtures of natural gas and synthetic gas;

(b) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing hazardous substances, pollutants, or contaminants into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant, but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; the release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of the Act, or any release of source by-product, or special nuclear material from any processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978; and the normal application of fertilizer;

(c) "Site" means any building, structure, installation, equipment, pipe, or pipeline, including any pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage containers, motor vehicles, rolling stock, or aircraft, or any other place or area where a release or threatened release has occurred. The term shall not include any consumer product in consumer use;

(d) "Environmental emergency" means any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by Section 311(b)(3) of the Federal Clean Water Act - (Public Law 92-500), as amended;

(e) "Threatened release" means a circumstance which presents a substantial threat of a release;

(f) "Pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section and shall not include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas);

(g) "Environment" means the waters of the Commonwealth, land surface, surface, and subsurface soils and strata, or ambient air within the Commonwealth or under the jurisdiction of the Commonwealth;

(h) "Financial institution" means, for purposes of subsections (26) and (27) of this section, the following:

1. A bank or trust company defined by KRS Chapter 287;
2. A savings and loan association defined by KRS Chapter 289;
3. A credit union defined by KRS Chapter 290;
4. A mortgage loan company or loan broker defined by KRS Chapter 294;
5. An insurer defined by KRS Chapter 304; and
6. Any other financial institution engaged in the business of lending money, the lending operations of which are subject to state or federal regulation; and

(i) "Fiduciary" means, for purposes of subsections (26) and (27) of this section, a fiduciary as defined by KRS Chapter 386.

(2) The cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A designating individual hazardous substances, pollutants, or contaminants; establishing their respective reportable quantities; and establishing their respective release notification requirements, which differ from those designated or established in subsections (3) to (9) of this section, if necessary to:

(a) Protect human health and the environment;

(b) Maintain consistency with valid scientific development; or

(c) Maintain consistency with newly adopted federal regulations.

(3) The hazardous substances for which release notification is required shall be those hazardous substances designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; those extremely hazardous substances designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986; nerve and blister agents designated under KRS 224.50-130(2); and any hazardous substances designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section.

(4) The reportable quantity for a release of a hazardous substance designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, shall be the quantity designated in 40 C.F.R. Part 302. The reportable quantity for a release of an extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986 shall be the quantity designated in 40 C.F.R. Part 355. The reportable quantity for a release of a nerve or blister agent designated under KRS 224.50-130(2) shall be any quantity. The cabinet may establish reportable quantities for hazardous substances in administrative regulations promulgated pursuant to subsection (2) of this section which differ from those established in this subsection. The reportable quantity for any hazardous substance designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section shall be the reportable quantity established by the cabinet.

(5) The release notification requirements for a release of a hazardous substance designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, shall be the notification requirements established in 40 C.F.R. Part 302. The release notification requirements for a release of an extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986 shall be the notification requirements established in 40 C.F.R. Part 355. Whenever notification of a release or threatened release of a hazardous substance is required pursuant to this section, any person possessing or controlling the hazardous substance shall immediately notify the cabinet's twenty-four (24) hour environmental response line. The cabinet may establish release notification requirements by administrative regulation promulgated pursuant to subsection (2) of this section which differ from those established in this subsection. The release notification requirements for any hazardous substance designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section shall be the release notification requirements established in the cabinet's administrative regulations.

(6) Any person possessing or controlling a pollutant or contaminant for which a reportable quantity has been established by administrative regulation promulgated pursuant to subsection (2) of this section shall immediately notify the cabinet's twenty-four (24) hour environmental response line, as soon as that person has knowledge of any release or threatened release, other than a permitted release or application of a pesticide in accordance with the manufacturer's instructions, of a pollutant or contaminant to the environment in a quantity equal to or exceeding the reportable quantity. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(7) Any person possessing or controlling a pollutant or contaminant shall, as soon as that person has knowledge of any release

or threatened release of a pollutant or contaminant from a site to the environment in a quantity which may present an imminent or substantial danger to the public health or welfare, immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release. If a person possessing or controlling a pollutant or contaminant for which a reportable quantity has not been established in administrative regulations promulgated pursuant to subsection (2) of the section fails to report a release or threatened release because of a good-faith belief that the release did not present an imminent or substantial danger to the public health or welfare, that person shall not be liable for a violation of the release notification requirements of this section. In determining whether a person has acted in good faith, the cabinet shall consider the circumstances surrounding the release, including whether the release was a permitted release or the application of a pesticide in accordance with the manufacturer's instructions.

(8) The cabinet may require the person subject to the release notification requirements of subsections (5) to (9) of this section to provide a written report on the release or threatened release. This report shall be submitted to the environmental response section of the cabinet within seven (7) days of the cabinet's demand for the report. The report shall identify the following:

(a) The precise location of the release or threatened release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the release or threatened release;

(c) The name, address, and phone number of persons having actual knowledge of the facts surrounding the release or threatened release;

(d) The specific pollutant or contaminant or hazardous substance released or threatened to be released;

(e) The concentration and quantity of the pollutant or contaminant or hazardous substance in the release or threatened release;

(f) The circumstances and cause of the release or threatened release;

(g) Efforts taken by the person to control or mitigate the release or threatened release;

(h) To the extent known, the harmful effects of the release or threatened release;

(i) The transportation characteristics of the medium or matrix into which the material was released or threatened to be released;

(j) Any present or proposed remedial action by the person at the site of the release or threatened release;

(k) The name, address, and phone number of the person who can be contacted for additional information concerning the release or threatened release; and

(l) Any other information that may facilitate remediation of the site.

(9) A person possessing or controlling a hazardous substance, pollutant, or contaminant shall immediately notify the cabinet pursuant to subsection (5) of this section when release notification, including notification of a continuous release reported under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, is provided to the United States Environmental Protection Agency. Within seven (7) days of providing any written notification to the United States Environmental Protection Agency, the person shall submit to the cabinet a copy of the release notification submitted to the United States Environmental Protection Agency. The cabinet shall not require additional information pursuant to subsection (5) of this section if the release notification is in compliance with this subsection, unless a written report is required under subsection (8) of this section or the release or threatened release constitutes an environmental emergency.

(10) Any person in charge of a vessel or site from which oil is discharged in a harmful quantity as defined by 40 C.F.R. Part 110 in contravention of Section 311 of the Federal Clean Water Act shall immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the discharge, the material discharged, and the approximate quantity and concentration of the discharge.

(11) Any person possessing or controlling petroleum or a petroleum product as defined by KRS 224.60-115[~~(15)~~] shall, as soon as that person has knowledge of any release or threatened release, other than a permitted release or application of a pesticide in accordance with the manufacturer's instructions, in an amount of twenty-five (25) gallons or more in a twenty-four (24) hour period, except for diesel fuel for which the reportable quantity is seventy-five (75) gallons or more in a twenty-four (24) hour period, or in contravention of Section 311 of the Federal Clean Water Act, immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(12) The cabinet may require the person subject to subsections (10) and (11) of this section to provide a written report on the discharge or release. This report shall be submitted to the environmental response section of the cabinet within seven (7) days of the cabinet's demand for the report. The report shall identify the following:

(a) The precise location of the discharge or release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the discharge or release;

(c) The name, address, and phone number of persons having actual knowledge of the facts surrounding the discharge or release;

(d) The concentration and quantity of the discharge or release;

(e) The circumstances and cause of the discharge or release;

(f) Efforts taken by the person to control or mitigate the discharge or release;

(g) To the extent known, the harmful effects of the discharge or release;

(h) The transportation characteristics of the medium or matrix into which the material was discharged or released;

(i) Any present or proposed remedial action by the person at the site of the discharge or release;

(j) The name, address, and phone number of the person who can be contacted for additional information concerning the discharge or release; and

(k) Any other information that may facilitate an emergency spill response, or remediation of the site.

(13) Timely notification received under the release notification requirements of this section or information obtained in a notification received under the release notification requirements of this section may not be used against the person making the notification in any criminal proceeding, except in a prosecution for submitting a false or untimely notification to the cabinet. Notification received by the cabinet of a threatened release or discharge shall not be deemed a separate incident.

(14) The cabinet shall be the lead agency for hazardous substance, pollutant, or contaminant emergency spill response and, after consultation with other affected federal, state, and local agencies and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the release of a hazardous substance, pollutant, or contaminant. The contingency plan shall:

(a) Provide for efficient, coordinated, and effective action to minimize damage to the air, land, and waters of the Commonwealth caused by the release or threatened release of hazardous substances, pollutants, or contaminants;

(b) Include containment, cleanup, and disposal procedures;

(c) Provide for remediation or restoration of the lands or waters affected consistent with this section;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance, and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared, and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing, and disposing of hazardous substances released or being released.

(15) The cabinet shall have the authority, power, and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual and necessary costs expended in response to a threatened release, an environmental emergency, or a release of a hazardous substance that is reportable under this section. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof, or the amount of liability of any person;

(b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of Section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under Section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in the section. The limitations of liability shall apply to the total of state and federal expenses; and

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the release or threatened release is unknown, the cabinet or its agent may contain, remove, or dispose of the hazardous substance, pollutant, or contaminant or take any other action consistent with this section, including, but not limited to, issuance of an emergency order as provided in KRS 224.10-410 to the person possessing, controlling, or responsible for the release or threatened release as necessary for the protection of the environment and public health, safety, or welfare.

(16) Any duly authorized officer, employee, or agent of the cabinet may upon notice to the owner or occupant enter any property, premises, or place at any time for the purposes of this section, if the entry is necessary to prevent damage to the air, land, or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(17) The cabinet shall prepare and annually update an inventory of all sites in the Commonwealth at which there is or has been an environmental emergency or a release of a hazardous substance, pollutant, or contaminant. In preparing the inventory, the cabinet shall determine, based on information available to the cabinet, the impact of each site on public health and the

environment and identify the relative priority for restoration or remedial action. Upon determining that no further restoration or remedial action is necessary, the cabinet shall so designate the site on the inventory. A separate designation of sites where a remedial action involving on-site containment or treatment has been performed and other sites where restoration of the environment has not been achieved shall be maintained. A review of environmental conditions at sites remediated by on-site containment or treatment and other sites where restoration or remediation of the environment is not achieved shall be conducted by the cabinet every five (5) years to determine whether additional action is necessary to protect human health or the environment.

(18) Any person possessing or controlling a hazardous substance, pollutant, or contaminant which is released to the environment, or any person who caused a release to the environment of a hazardous substance, pollutant, or contaminant, shall characterize the extent of the release as necessary to determine the effect of the release on the environment, and shall take actions necessary to correct the effect of the release on the environment. Any person required to take action under this subsection shall have the following options:

(a) Demonstrating that no action is necessary to protect human health, safety, and the environment;

(b) Managing the release in a manner that controls and minimizes the harmful effects of the release and protects human health, safety, and the environment, provided that the management may include any existing or proposed engineering or institutional controls and the maintenance of those controls;

(c) Restoring the environment through the removal of the hazardous substance, pollutant, or contaminant; or

(d) Any combination of paragraphs (a) to (c) of this subsection.

(19) Unless otherwise required by the cabinet, a person required to characterize the extent of a release and correct the effect of the release on the environment under subsection (18) of this section may take those actions without making the demonstrations to the cabinet required by subsections (18) to (21) of this section, if:

(a) The release is less than the reportable quantity of a hazardous substance, pollutant, or contaminant;

(b) The release is of a pollutant or contaminant for which a reportable quantity has not been established by administrative regulation promulgated pursuant to subsection (2) of this section, if the release does not present an imminent or substantial danger to the public health or welfare; or

(c) The release is authorized by a state or federal permit.

(20) If a person required to take action under subsection (18) of this section demonstrates to the cabinet that, pursuant to subsection (18)(a) of this section, no action is necessary to protect human health, safety, and the environment or, pursuant to subsection (18)(b) of this section, the release will be managed in a manner that controls and minimizes the harmful effects of the release and protects human health, safety, and the environment, the cabinet shall not require restoration of the environment through the removal of the hazardous substance, pollutant, or contaminant pursuant to subsection (18)(c) of this section.

(21) A person required to take action under subsection (18) of this section who does not restore the environment through removal of the hazardous substance, pollutant, or contaminant in accordance with subsection (18)(c) of this section shall demonstrate to the cabinet that the remedy is protective of human health, safety, and the environment, by considering the following factors:

(a) The characteristics of the substance, pollutant, or contaminant, including its toxicity, persistence, environmental fate and transport dynamics, bioaccumulation, biomagnification, and potential for synergistic interaction and with specific reference to the environment into which the substance, pollutant, or contaminant has been released;

(b) The hydrogeologic characteristics of the facility and the surrounding area;

(c) The proximity, quality, and current and future uses of surface water and groundwater;

(d) The potential effects of residual contamination of potentially impacted surface water and groundwater;

(e) The chronic and acute health effects and environmental consequences to terrestrial and aquatic life of exposure to the hazardous substance, pollutant, or contaminant through direct and indirect pathways;

(f) An exposure assessment; and

(g) All other available information.

(22) A person who submits a proposal to the cabinet pursuant to subsection (18) of this section may request in writing a final determination on the proposal no sooner than thirty (30) days after its submission. When a final determination on the proposal is requested, the cabinet shall make its final determination within sixty (60) working days from the date the request is received by the cabinet. After a final determination has been made, the person requesting the final determination may request a hearing pursuant to the provisions of KRS 224.10-420. Nothing in this subsection shall relieve any person of any obligations imposed by law during an environmental emergency, nor shall it require the cabinet to approve a proposal which would violate this chapter or the administrative regulations promulgated pursuant thereto.

(23) (a) The cabinet shall have a lien against the real and personal property of a person liable for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the property of the person is located.

(b) If a financial institution exempted from liability by subsection (26) of this section conveys the site it has acquired, then the cabinet shall have a lien against the site for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the site is located.

(24) Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to Section 311 of the Federal Clean Water Act (Public Law 92-500) as amended, but shall be used to provide the Commonwealth with a mechanism for additional response to releases and threatened releases of hazardous substances, pollutants, or contaminants.

(25) Defenses to liability, limitations to liability, and rights to contribution shall be determined in accordance with Sections 107(a) to (d) and 113(f) of the Comprehensive Environmental Response Compensation and Liability Act, as amended, and the Federal Clean Water Act, as amended.

(26) In addition to the defenses and limitations provided in subsection (25) of this section, a financial institution that acquired a site by foreclosure, by receiving an assignment, by deed in lieu of foreclosure, or by otherwise becoming the owner as a result of the enforcement of a mortgage, lien, or other security interest held by the financial institution, shall not be liable under this section with respect to the site, if:

(a) The financial institution served only in an administrative, custodial, financial, or similar capacity with respect to the site before its acquisition;

(b) The financial institution did not control or direct the handling of the material causing the environmental emergency, or control or direct the handling of the hazardous substance, pollutant, or contaminants, at the site before its acquisition;

(c) The financial institution did not participate in the day-to-day management of the site before its acquisition;

(d) The financial institution, at the time it acquired the site, did not know and had no reason to know that a hazardous substance, pollutant, or contaminant was disposed at the site. For purposes of this paragraph, the financial institution shall have undertaken, at the time of acquisition, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. What actions constitute all appropriate inquiries shall be determined by taking into account any specialized knowledge or experience on the part of the financial institution, the relationship of the market value of the site to the value of the site if uncontaminated, commonly known or reasonably ascertainable information about the site, the obviousness of the presence or likely presence of contamination at the site, the ability to detect the contamination by appropriate inspection, and any other relevant factor;

(e) The financial institution, when it undertakes actions to protect or preserve the value of the site, undertakes those actions in accordance with this chapter and the administrative regulations adopted pursuant thereto;

(f) The financial institution, its employees, agents, and contractors did not cause or contribute to an environmental emergency, or to a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(g) The financial institution complies with the release notification requirements of subsection (9) of this section.

(27) In addition to the defenses and limitations provided in subsection (25) of this section, a financial institution serving as a fiduciary with respect to an estate or trust, the assets of which contain a site, shall not be liable under this section with respect to the site if:

(a) The financial institution served only in an administrative, custodial, financial, or similar capacity with respect to the site before it became a fiduciary;

(b) The financial institution did not control or direct the handling of the material causing the environmental emergency, or control or direct the handling of the hazardous substance, pollutant, or contaminants, at the site before it became a fiduciary;

(c) The financial institution did not participate in the day-to-day management of the site before it became a fiduciary;

(d) The financial institution, at the time it became a fiduciary, did not know and had no reason to know that a hazardous substance, pollutant, or contaminant was disposed at the site. For purposes of this paragraph, the financial institution shall have undertaken, at the time it became a fiduciary, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. What actions constitute all appropriate inquiries shall be determined by taking into account any specialized knowledge or experience on the part of the financial institution, the relationship of the market value of the site to the value of the site if uncontaminated, commonly known or reasonably ascertainable information about the site, the obviousness of the presence or likely presence of contamination at the site, the ability to detect the contamination by appropriate inspection, and any other relevant factor;

(e) The financial institution, when it undertakes actions to protect or preserve the value of the site, undertakes those actions in accordance with this chapter and the administrative regulations adopted pursuant thereto;

(f) The financial institution, its employees, agents, and contractors did not cause or contribute to an environmental emergency, or to a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(g) The financial institution complies with the release notification requirements of subsection (9) of this section.

Section 34. KRS 224.01-512 is amended to read as follows:

As used in KRS 224.01-510 to 224.01-532:

(1) "Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), and any hazardous substance included in KRS 224.01-400(3);

(2) "Petroleum" shall have the meaning set forth in KRS 224.60-115[~~(15)~~];

(3) "Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115[~~(16)~~];

(4) "Property" means a tract of real property for which an application has been submitted under KRS 224.01-514;

(5) "Remediation" means the characterization of a release of a hazardous substance or petroleum, in accordance with KRS 224.01-400(18) for hazardous substances or KRS 224.01-405 for petroleum, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.01-400 for hazardous substances, pollutants, or contaminants or KRS 224.01-405 for petroleum; and

(6) "Site" shall have the meaning in KRS 224.01-400(1)(c).

Section 35. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall consist of a financial responsibility account and a petroleum storage tank account. Each account shall be maintained as a separate and distinct interest-bearing account. Interest credited to an account shall be retained in that account. All of the following amounts shall be deposited in the fund:

  (a) Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account;

  (b) One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;

  (c) Money appropriated by the General Assembly for deposit in each account;

  (d) Any money recovered by the fund pursuant to this section shall be deposited in the appropriate account; and

  (e) Any money collected in the form of penalties levied pursuant to KRS 224.60-155 shall be deposited to the appropriate account.

(2) Money in the fund, financial responsibility account and the petroleum storage tank account shall be used by the office for the following purposes:

  (a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action required by the cabinet to be undertaken as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established in law or administrative regulation by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130***(l)***[~~(2)~~](j);

  (b) For payment of or reimbursement for third-party claims for bodily injury and property damage, related to a facility eligible for participation in the financial responsibility account, which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

  (c) To pay the reasonable, prorated costs incurred by the office in administering each account; and

  (d) The cost to operate the small operators' assistance account pursuant to KRS 224.60-130***(l)***[~~(2)~~](d), the small operators' tank removal account pursuant to KRS 224.60-130***(l)***[~~(2)~~](j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130***(l)***[~~(2)~~](k), and to employ sufficient ***inspectors***[~~assurance fund auditors~~] to carry out the provisions of KRS 224.60-130 and to set forth their duties. These costs shall be prorated to each account.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the office for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be

reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the office.

(7) The office or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. The office shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The office shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days. When the office receives information that corrects the deficiency, or at the end of the thirty (30) day period, the office shall complete the review of the claim within the time remaining in the ninety (90) day review period. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the office from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the office's cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the office pursuant to this section shall be deposited in the appropriate account.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The appropriate account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the office shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the office and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the office. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the office shall certify, by affidavit, on standard forms furnished by the office, that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the office who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the office who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 36. The following KRS sections are repealed:

224.10-030 Bodies attached for administrative purposes.

224.10-055 Powers and duties of Governor.

224.10-060 Prior energy regulations and actions in effect until modified.

Section 37. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 38. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends or repeals the administrative regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the administrative regulations that require any changes to the regulations compiler.

Section 39. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2003-064, dated December 23, 2003, relating to the Environmental and Public Protection Cabinet, and the Governor's Executive Order 2003-513, dated May 22, 2003, and the Governor's Executive Order 2004-031, dated January 6, 2004, to the extent they are not otherwise confirmed or superseded by this Act.

The House Committee Substitute to **SB 154** is as follows:

SB 154, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development,~~[the Public Protection and Regulation Cabinet,]~~ the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet,~~[the Labor Cabinet,]~~ the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of

staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.

(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department ***of Labor***[~~for Surface Mining Reclamation and Enforcement~~].
(f) ***Department of Public Protection***[~~Office of Legal Services~~].
(g) Office of ***the Secretary***[~~Information Services~~].
(h) ***Office of Legal Services.***
(i) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
    1. Office of Program Planning and Management.
    2. Office of Project Development.
    3. Office of Construction and Operations.
    4. Office of Intermodal Programs.
    5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.

(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6.[~~Public Protection and Regulation Cabinet:~~
~~(a) Public Service Commission.~~
~~(b) Department of Insurance.~~
~~(c) Department of Housing, Buildings and Construction.~~
~~(d) Department of Financial Institutions.~~
~~(e) Department of Mines and Minerals.~~
~~(f) Department of Public Advocacy.~~
~~(g) Department of Alcoholic Beverage Control.~~
~~(h) Kentucky Racing Commission.~~
~~(i) Board of Claims.~~
~~(j) Crime Victims Compensation Board.~~
~~(k) Kentucky Board of Tax Appeals.~~
~~(l) Backside Improvement Commission.~~
~~(m) Office of Petroleum Storage Tank Environmental Assurance Fund.~~
~~(n) Department of Charitable Gaming.~~
~~(o) Mine Safety Review Commission.~~
~~7.~~] Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
  (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

7.[~~8.~~] Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

8.[~~9.~~] Finance and Administration Cabinet:
(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.

(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.
(k) County Officials Compensation Board.
(l) Kentucky Employees Retirement Systems.
(m) Commonwealth Credit Union.
(n) State Investment Commission.
(o) Kentucky Housing Corporation.
(p) Governmental Services Center.
(q) Kentucky Local Correctional Facilities Construction Authority.
(r) Kentucky Turnpike Authority.
(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

[~~10. Labor Cabinet:~~
~~(a) Department of Workplace Standards.~~
~~(b) Department of Workers' Claims.~~
~~(c) Kentucky Labor-Management Advisory Council.~~
~~(d) Occupational Safety and Health Standards Board.~~
~~(e) Prevailing Wage Review Board.~~
~~(f) Workers' Compensation Board.~~
~~(g) Kentucky Employees Insurance Association.~~
~~(h) Apprenticeship and Training Council.~~
~~(i) State Labor Relations Board.~~
~~(j) Kentucky Occupational Safety and Health Review Commission.~~
~~(k) Office of Administrative Services.~~
~~(l) Office of Information Technology.~~
~~(m) Office of Labor-Management Relations and Mediation.~~
~~(n) Office of General Counsel.~~
~~(o) Workers' Compensation Funding Commission.~~
~~(p) Employers Mutual Insurance Authority.~~]

9.[~~11.~~] Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

10.[~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.

(h) Tourism Development Finance Authority.
11.~~[13.]~~ Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
12.~~[14.]~~ Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:
(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet.
(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6)[~~ Public Protection and Regulation Cabinet.~~

~~(7)~~] Cabinet for Health Services.

(7)[~~(8)~~] Cabinet for Families and Children.

(8)[~~(9)~~] Finance and Administration Cabinet.

(9)[~~(10)~~] Tourism Development Cabinet.

(10)[~~(11)~~] Revenue Cabinet.

[~~(12) Labor Cabinet.~~]

(11)[~~(13)~~] Cabinet for Workforce Development.

(12)[~~(14)~~] Personnel Cabinet.

SECTION 4. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

There is established in the Office of the Secretary, an Office of Communications and Public Outreach, an Office of Legislative and Intergovernmental Affairs, and an Office of Administrative and Information Services. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The Workers' Compensation Board shall be attached to the secretary's office for administrative purposes only.

SECTION 5. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary of the cabinet to protect and enhance the state's natural resources and environment, the cabinet and the secretary of the cabinet are also vested with the powers and duties, previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by the KRS or executive order of the Governor as ratified by the General Assembly.

Section 6. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of *twenty-five (25)*[~~twenty-six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;

12. The secretary of the ***Environmental and Public***[~~Natural Resources and Environmental~~] Protection Cabinet or his designee;

13. The Commissioner of the Department of Agriculture or his designee;

14.[~~The secretary of the Public Protection and Regulation Cabinet or his designee;~~

~~15.~~] The secretary of the Tourism Development Cabinet or his designee;

15.[~~16.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

16.[~~17.~~] Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

17.[~~18.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

18.[~~19.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

19.[~~20.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

20.[~~21.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

21.[~~22.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

22.[~~23.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 7. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint

stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, ***executive directors,*** principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

- (a) The Governor;
- (b) The Lieutenant Governor;
- (c) The Secretary of State;
- (d) The Attorney General;
- (e) The Treasurer;
- (f) The Commissioner of Agriculture;
- (g) The Auditor of Public Accounts; and
- (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 8. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services

1. Office of Certificate of Need

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children

1. Department for Community Based Services

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

2. Department for Disability Determination Services

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e)[~~Labor Cabinet~~

~~1. Department of Workers' Claims~~

~~a. Workers' compensation hearings conducted under authority of KRS Chapter 342~~

~~(f)]~~ ***Environmental and Public***~~[Natural Resources and Environmental]~~ Protection Cabinet

1. Department for ***Natural Resources***~~[Surface Mining Reclamation and Enforcement]~~

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

3. Office of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f)~~[(g)]~~ Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(g)~~[(h)]~~ ***Department of*** Public Protection~~[and Regulation Cabinet]~~

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(h)~~[(i)]~~ Cabinet for Workforce Development

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(i)~~[(j)]~~ Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(j)~~[(k)]~~ State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 9. KRS 42.066 is amended to read as follows:

(1) The Division of Occupations and Professions shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy,~~[Kentucky Athletic Commission,]~~ the State Board of Examiners and Registration of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the State Board for Proprietary Education, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.

(2) To the extent that the division provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.

(3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission.

(4) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

Section 10. KRS 45A.610 is amended to read as follows:

~~[(1)]~~By January 1, 1991, a minimum of fifteen (15) percent of the purchases of garbage can liners by state agencies shall be starch-based plastic garbage can liners. The percentage shall increase by five (5) percent annually until fifty (50) percent of the purchase of garbage can liners are purchases of starch-based plastic garbage can liners.

~~[(2) The Natural Resources and Environmental Protection Cabinet shall perform tests and experiments to determine whether or not it is advantageous for the Commonwealth to require use of starch-based biodegradable products or containers. The cabinet shall report its findings to the 1992 Regular Session of the General Assembly.]~~

Section 11. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) (a) The fiscal court of a county or the urban-county council of an urban-county government may license a solid waste landfill located within the county or urban-county area. The license fee may be set at not less than one cent ($0.01) but no more than fifty cents ($0.50) per ton of waste received by the landfill or set at up to five percent (5%) of gross receipts of the landfill.

(b) The license fee as set may be increased by an amount up to one-quarter (1/4) of the base fee per ton or on gross receipts of waste received at the landfill which originates from outside of the planning area. For purposes of this section, planning area shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multicounty area, or waste management district. However, before a fee differential may be imposed the county or urban-county government shall demonstrate that the differential is reasonably related to additional government services which must be undertaken because of the landfilling of nonplanning area waste. This demonstration may be made by showing an unplanned for reduction in waste disposal capacity and a need to provide for future disposal capacity or impacts on roads, litter control or emergency services.

(c) The proceeds from the license fee shall be used to defray the government services provided to the landfill, necessary clean-up operations or emergency responses related to operation of the landfill or transporting waste to the landfill, necessary maintenance, improvement or construction of roads, and for the general revenue requirements of the county or urban-county government where the landfill is located.

(d) ~~[Five percent (5%) of the license fee shall be remitted annually to the Natural Resources and Environmental Protection Cabinet until July 30, 1990. The cabinet shall use the amount received for state solid waste management activities.]~~Ten percent (10%) *of the license fee* shall be remitted annually in equal shares to all counties and urban-county governments in the planning area served by the landfill from where the fees originated which shall be used for local solid waste planning and plan implementation. Counties or urban-county governments desiring to impose the fee provided for herein are authorized to accept payments in lieu of the fee under duly-executed contracts between the county and the permitted site or facility. The fee provided for in this subsection shall be in lieu of the provisions of subsection (1). Special waste, as defined in KRS 224.50-760, except for waste from sanitary wastewater treatment facilities, shall be exempt from this subsection.

(3) In the case of hazardous waste facilities involving land disposal, including a regional integrated waste treatment and disposal demonstration facility as defined in KRS Chapter 224, the rate levied under this section shall be not more than five percent (5%) per annum of the gross receipts and shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to, the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

Section 12. KRS 224.10-020 is amended to read as follows:

(1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection,~~[and]~~ a Department *of Labor and a Department of Public Protection*~~[for Surface Mining Reclamation and Enforcement]~~. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

(2) There is established within the Department for Natural Resources, a Division of Field Services, a Division of Permits, a Division of Mines and Minerals, a Division of Oil and Gas Conservation, and a Division of Abandoned Mine Lands. Each division shall be headed by a director appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, Section 27 of this Act. The directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(3) There is established within the Department of Labor, an Office of Occupational Safety and Health, an Office of Labor-Management Relations and Mediation, and an Office of Workplace Standards. Each office shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. The following agencies are attached to the department for administrative purposes only:

(a) Kentucky Labor-Management Advisory Council;

(b) Occupational Safety and Health Standards Board;

(c) Prevailing Wage Review Board;

(d) Kentucky Employees Insurance Association;

(e) Apprenticeship and Training Council;

(f) State Labor Relations Board;

(g) Kentucky Occupational Safety and Health Review Commission;

(h) Workers Compensation Funding Commission;

(i) Employers Mutual Insurance Authority;

(j) Workers Compensation Advisory Council;

(k) Workers Compensation Nominating Commission; and

(l) Office of Workers' Claims.

(4) There is established within the Department of Public Protection, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Building, and Construction, an Office of Charitable Gaming, and an Office of Alcohol Beverage Control. Each office shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(5) The following agencies are attached to the Department of Public Protection for administrative purposes only:

(a) Public Service Commission;

(b) Kentucky Horse Racing Authority;

(c) Crime Victims Compensation Board;

(d) Board of Claims;

(e) Board of Tax Appeals;

(f) Kentucky Athletic Commission; and

(g) Office of Public Advocacy.

Section 13. KRS 224.10-040 is amended to read as follows:

(1) The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create[~~ such~~] positions***, to retain positions in effect prior to appointment as secretary,*** and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The secretary shall designate a person to act as deputy for him in the exercise of his duties in his absence.

(2) All appointments to positions not in the classified service shall be made pursuant to KRS 12.050[~~ and such appointees shall be major assistants to the secretary and shall assist in the development of policy~~].

Section 14. KRS 224.10-050 is amended to read as follows:

The secretary shall establish the[~~ internal~~] organization of the cabinet not established ***by statute or executive order of the Governor as ratified by the General Assembly***[~~in KRS 224.10-040~~] and shall divide the cabinet into such offices or divisions as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12. ***The secretary may keep or revise any offices or divisions in place prior to appointment as secretary if keeping or revising the offices or divisions is not contrary to or conflict with the organization of the cabinet established by the KRS or executive order of the Governor as ratified by the General Assembly.***

Section 15. KRS 224.60-130 is amended to read as follows:

(1) [~~There is created within ~~]The ***Environmental and*** Public Protection[~~ and Regulation~~] Cabinet, ***Department for Environmental Protection, Division of Waste Management***[~~Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.~~

~~(2) The Office of Petroleum Storage Tank Environmental Assurance Fund~~] shall***, among its functions***:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks. The ***division***[~~office~~] may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***division***[~~office~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***division***[~~office~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***division***[~~office~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The ***division***[~~office~~] may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the ***division***[~~office~~] on or before January 15, 2004. To insure cost effectiveness, the ***division***[~~office~~] shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***division***[~~office~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***division***[~~office~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2009. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2002, the ***division***[~~office~~] shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The ***division***[~~office~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***division***[~~office~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f)[~~Hear complaints brought before the office regarding the payment of claims from the fund in accordance with KRS Chapter 13B;~~

~~(g)~~] Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(g)[~~(h)~~] Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the ***division***[~~office~~], for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The ***division***[~~office~~] shall, by administrative regulation, set the entry level for participation in the fund;

(h)[~~(i)~~] Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(i)[~~(j)~~] Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***division***[~~office~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(j)[~~(k)~~] Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(k)[~~(l)~~] Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The ***division***[~~office~~] may collect soil or water samples or require storage tank owners or operators to split samples with the ***division***[~~office~~] for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the ***division***[~~office~~] to collect or split samples shall make the facility ineligible for fund participation;

(l)[~~(m)~~] Have ***inspectors***[~~assurance fund auditors~~] on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the ***division***[~~office~~] schedule an ***inspector***[~~assurance fund auditor~~] to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an ***inspector***[~~auditor~~] fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the ***division***[~~assurance fund~~] no later than ten (10) days prior to the proposed date that an ***inspector***[~~auditor~~] is not available on the proposed date, in which event a representative of the *division*[~~assurance fund~~] shall contact the operator and schedule a new date. If no *inspector*[~~auditor~~] is present at the rescheduled date, the removal may then proceed without penalty; and

(m)[~~(n)~~] Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter or by July 15, 2010, whichever is earlier. Claims received after July 15, 2010, are not eligible for reimbursement.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2004.

(2)[~~(3)~~] The *division*[~~office~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(3)[~~(4)~~] The *division*[~~office~~] may sue and be sued in its own name.

(4)[~~(5)~~] The *division*[~~office~~] may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The *division*[~~office~~] may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (2)(c) of this section.

Section 16. KRS 303.100 is amended to read as follows:

A burial association desiring to do business in this state shall file with the *executive director of the office of insurance*[~~commissioner~~] a power of attorney as is required of insurance companies, designating the *executive director*[~~commissioner~~] as the proper person upon whom process may be served.

Section 17. KRS 336.010 is amended to read as follows:

As used in *this chapter*[~~KRS 336.010 to 336.160~~], unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department of *Labor*[~~Workplace Standards~~] under the direction and supervision of the secretary of the *Environmental and Public Protection*[~~Labor~~] Cabinet; and

(2) "Department" means Department of *Labor*[~~Workplace Standards~~].

(3) "Secretary" means secretary of the Environmental and Public Protection Cabinet.

Section 18. KRS 336.015 is amended to read as follows:

(1) The *commissioner*[~~secretary~~] of *the Department of* Labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the[~~ commissioner and Department of~~] Labor *Cabinet*.

(2) The *Department of* Labor[~~ Cabinet~~] shall consist of the *Office of Occupational Safety and Health, the Office of Labor-Management Relations and Mediation, and the Office of Workplace Standards. Each of the offices shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor*[~~Offices of the Secretary, General Counsel, Administrative Services, Information Technology, Labor Management Relations and Mediation; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission; and the Departments of Workplace Standards, and Workers' Claims. The commissioner of the Department of Workplace Standards and the Department of Workers' Claims within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet~~].

(3) The following agencies are attached to the department for administrative purposes only:

(a) Kentucky Labor-Management Advisory Council;

(b) Occupational Safety and Health Standards Board;

(c) Prevailing Wage Review Board;

(d) Kentucky Employees Insurance Association;

(e) Apprenticeship and Training Council;

(f) State Labor Relations Board;

(g) Kentucky Occupational Safety and Health Review Commission;

(h) Workers' Compensation Funding Commission;

(i) Employers Mutual Insurance Authority; and

(j) Office of Workers' Claims.

Section 19. KRS 336.020 is amended to read as follows:

(1) The *Office*[~~Department~~] of Workplace Standards shall be headed by *an executive director*[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of Employment Standards, Apprenticeship and Training; *and* Workers' Compensation Funds[~~; Occupational Safety and Health Compliance; and Education and Training for Occupational Safety and Health~~].

(2) The ***Office***[~~Department~~] of Workers' Claims shall be administered by ***an executive director***[~~a commissioner~~] and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Information and Research, Security and Compliance, Administrative Law Judges, and ***Omsbudsman and Workers Compensation Specialists***[~~Insurance~~].

(3) The Office of Occupational Safety and Health shall be administered by an executive director and shall be divided for administrative purposes into the Division of Occupational Safety and Health Compliance and the Division of Education and Training for Occupational Safety and Health.

Section 20. KRS 336.030 is amended to read as follows:

The commissioner, with the approval of the ***Secretary of the Environmental and Public Protection Cabinet and the*** Governor, shall appoint necessary deputies, attorneys, statisticians, inspectors and other employees and fix their salaries according to law. These employees shall receive their actual necessary expenses.

Section 21. KRS 336.164 is amended to read as follows:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the ***Department of*** Labor[~~ Cabinet~~] or Cabinet for Economic Development. The council may make recommendations to the Governor and the Legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The ***commissioner of the Department***[~~secretary~~] of Labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he shall act as the executive secretary of the council.[~~ The executive director of the Office of Labor-Management Relations and Mediation shall be responsible for the coordination of such staff and supplies.~~]

Section 22. KRS 338.015 is amended to read as follows:

As used in this chapter:

(1) "Employer" shall mean any entity for whom a person is employed except those employers excluded in KRS 338.021.

(2) "Employee" shall mean any person employed except those employees excluded in KRS 338.021.

(3) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(4) "Occupational safety and health hazard" means any practice or condition in a place of employment which may be deemed detrimental to the safety and health of employees.

(5) "Occupational injury or illness" means any abnormal condition or disorder of an employee caused by exposure to factors associated with his employment.

(6) "Board" means the Kentucky Occupational Safety and Health Standards Board established under this chapter.

(7) "***Executive Director***[~~Commissioner~~]" means the ***executive director***[~~commissioner~~] of the ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] under the direction and supervision of the ***commissioner of the Department of Labor***[~~secretary of the Labor Cabinet~~].

(8) "Review commission" means the Kentucky Occupational Safety and Health Review Commission established under this chapter.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(10) The term "established federal standard" means any operative occupational safety and health standard established by any agency of the United States government.

(11) "Office" means the Office of Occupational Safety and Health.

(12) "Commissioner" means the commissioner of the Department of Labor.

Section 23. KRS 338.161 is amended to read as follows:

(1) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. Each employer shall make, keep and preserve, and make available to the ***executive director***[~~commissioner~~] and the Secretary of the United States Department of Labor or the Secretary of the United States Department of Health and Human Resources, such records regarding his activities relating to this chapter as may be prescribed by regulation.

(2) The ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] shall also issue regulations requiring

that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter.

Section 24. KRS 338.181 is amended to read as follows:

The ***Office of Occupational Safety and Health***[~~Kentucky Department of Workplace Standards~~] is empowered to administer the provisions of this chapter to employers, employees, and places of employment under the jurisdiction of the United States government pursuant to any agreement between the Commonwealth and the United States government. Pursuant to such agreement, the ***Office of Occupational Safety and Health***[~~Department of Workplace Standards~~] is empowered to make employer reports and data available to the United States government.

Section 25. KRS 339.210 is amended to read as follows:

As used in KRS 339.220 to 339.450 "gainful occupation" does not include employment in farm work or in domestic service in a private home, nor occasional employment by a householder in connection with the household and not in connection with the householder's business or occupation, such as grass cutting or carrying ashes or similar casual domestic tasks, nor the delivery of newspapers on regularly scheduled routes, nor to employment as an actor or performer in motion pictures or theatrical productions, or in radio or television productions, nor to employment of minors by their own parents or persons standing in the place of a parent in occupations other than manufacturing, mining, or those found by the ***executive director of the Office of Workplace Standards***[~~commissioner of labor~~] be particularly hazardous.

Section 26. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the Department ***for Natural Resources a***[~~the Division of~~] Mine Safety Analysis ***program***.

(2) Persons employed in ***mine safety analysis***[~~ the Division~~] as underground or surface mine safety analysts shall satisfy the applicable requirements established in KRS 351.090.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The safety analyst shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The ***program administrator for mine safety analysis***[~~Division~~] shall assist the Division of ***Mines and Minerals***[~~Miner Training, Education, and Certification~~] in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his discretion assign safety analysts to all mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the safety analysts in improving mine safety.

Section 27. KRS 353.530 is amended to read as follows:

(1) The Governor shall appoint, as director of ***the Division of*** Oil and Gas Conservation in the Department ***for Natural Resources***[~~of Mines and Minerals~~], a person who has, at the time of his appointment, at least five (5) years' experience in the exploration for or the production of oil or gas.

(2) It shall be his duty to administer the provisions of KRS 353.500 to 353.720 subject to the direction and supervision of the commissioner.

(3) Before taking office, the director shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate shall be filed in the office of the Secretary of State.

(4) No director shall, while holding office, acquire any financial interest, directly or indirectly, in any venture or activity for the exploration for or production of oil or gas in this Commonwealth.

Section 28. KRS 353.5901 is amended to read as follows:

(1) In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, a well operator shall submit to the ***Division of Oil and Gas Conservation***[~~department~~] an operations and reclamation proposal at the time of filing an application for permit to drill, deepen, or reopen a well. The proposal shall be filed on forms provided by the ***division***[~~department~~] and shall include:

(a) A proposal to prevent erosion of and sedimentation from the well site and all disturbed areas, including roads;

(b) A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks and other storage facilities, and any other information that may be required by the ***division***~~[department]~~. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities;

(c) A signed agreement by the surface owners of all disturbed areas to the operations and reclamation proposal; and

(d) Any additional information that the ***division***~~[department]~~ may require.

(2) In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface and the surface owners of all disturbed areas have not signed agreements with the well operator agreeing to the operations and reclamation proposal, at the time of filing the application the well operator shall cause to be delivered to the surface owners of all disturbed areas who have not agreed to the operations and reclamation proposal, by certified mail, return receipt requested:

(a) A copy of the operations and reclamation proposal required by paragraph (a) of subsection (1) of this section, and the narrative description of land disturbances and plat required by paragraph (b) of subsection (1) of this section; and

(b) A notice to read as follows: "If you do not agree with the proposed use of your land by the well operator, the well operator may request mediation of your dispute by the General Counsel's Office of the ***Environmental and Public Protection Cabinet***~~[Department of Mines and Minerals]~~. If mediation is requested, and you decide to participate, each party to the mediation will be charged one hundred dollars ($100) to help cover the cost of mediation. You will be notified of the time and place for mediation, if the well operator chooses mediation, and of your right to participate."

The certified mail receipt, when returned, shall be filed by the well operator with the ***division***~~[department]~~ and made part of the permit application.

(3) If the well operator has been unable to reach agreement with the surface owners of all areas to be disturbed in all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the permit required by this chapter shall not be issued until the dispute has been referred to mediation by the~~[General Counsel's]~~ Office of ***Legal Services of*** the ***Environmental and Public Protection Cabinet***~~[Department of Mines and Minerals]~~, and mediation has been concluded either by agreement between the parties or by a report of the mediator, in accordance with subsection (4) of this section.

(4) The well operator may request mediation any time after filing the permit application, and all parties participating in the mediation shall pay a nonrefundable fee of one hundred dollars ($100) to the Kentucky State Treasurer, which shall be for the sole use of the ***Division of Oil and Gas Conservation***~~[department]~~ and shall be in addition to any money appropriated by the General Assembly for the use of the ***division***~~[department]~~. The ***division***~~[department]~~ shall notify the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operation and reclamation plan of the date and time mediation shall be conducted by certified mail, return receipt requested. The ***division***~~[department]~~ shall conduct mediation at the site proposed to be disturbed within fifteen (15) days from the date requested, if practicable. At the mediation, the mediator will attempt to facilitate an agreement between the well operator and the surface owner. If an agreement is not forthcoming after mediation, the mediator shall, within five (5) days after mediation, issue a report to the director ***of oil and gas conservation*** recommending that the director ***of oil and gas conservation***:

(a) Accept the proposal as submitted by the well operator; or

(b) Accept the proposal with modifications set forth by the mediator.

(5) If an agreement between the well operator and the surface owners of all disturbed areas is not forthcoming after mediation, the mediator shall consider the following factors as to the reasonable use of the surface by the well operator in issuing a report to the director ***of oil and gas conservation***, which recommendations shall become permit conditions:

(a) The location of roads, gathering lines, and tank batteries;

(b) The timing of the operation, considering seasonal uses of the land by the surface owner and the need of the well operator to drill expeditiously;

(c) The impact on the other uses of the land by the surface owner, including the location of timber, houses, barns, ponds, crops, and other improvements;

(d) Whether the proposal includes a plan for timely, effective reclamation of all disturbed areas; and

(e) Any other information deemed appropriate by the mediator.

(6) The director ***of oil and gas conservation*** shall act upon the recommendation of the mediator within five (5) days of the receipt of the mediation report.

Section 29. KRS 353.630 is amended to read as follows:

(1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened, or reopened by reason of the spacing provisions of KRS 353.610, the ***Division of Oil and Gas Conservation***~~[department]~~ shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the

production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The ***division***[~~department~~] shall require the development and operation of all pooled acreage as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.

(2) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the ***division***[~~department~~] shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. For purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the operator has complied with the publication requirements of KRS 353.640(1) with respect to the unknown or nonlocatable owners. The ***division***[~~department~~] shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.

(3) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the ***division***[~~department~~] shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. The ***division***[~~department~~] shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.

(4) No pooling as permitted by this section shall be ordered except:

(a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in KRS 353.610; and

(b) When a lessee or owner of an oil or gas interest in the tract shall request the pooling.

(5) No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or reopened:

(a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract pursuant to subsection (1), (2), or (3) of this section; and

(b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director ***of oil and gas conservation*** for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.

(6) Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

Section 30. KRS 353.640 is amended to read as follows:

(1) The operator shall provide a list to the ***Division of Oil and Gas Conservation***[~~department~~] of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the ***division***[~~department~~] for a pooling order. A pooling order shall be made only after the ***division***[~~department~~] provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled after a hearing has been held. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:

(a) State that an application for a pooling order is being filed with the Division of Oil and Gas in the department;

(b) Describe any tract, or portion thereof, proposed to be pooled;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the operator at the published address and provide a copy of the notification to the director of the Division of Oil and Gas in the department within twenty (20) days of the date of publication.

(2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the

time and manner in which all owners of operating interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

(3) A pooling order shall establish a procedure for the owner of an operating interest who does not decide to become a participating operator to elect to either:

(a) Surrender, by means of sale or lease, the interest to a participating operator on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be determined by the director ***of oil and gas conservation***; or

(b) Share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

(4) An oil or gas owner whose identity and location remain unknown at the conclusion of a hearing concerning the entry of a pooling order for which public notice was given and whose interest is pooled pursuant to KRS 353.630(3) shall be deemed to have elected to lease the interest to the oil or gas operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (3) of this section.

(5) Except as provided in this subsection, an oil or gas owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the oil or gas interest to the oil or gas well operator in the manner established in subsection (4) of this section. If the holder of an operating interest has obtained the interest by lease or other agreement granting the right to conduct operations to anyone other than the holder of the oil and gas estate, and if the owner of the operating interest does not make an election under the pooling order, the holder of the operating interest shall be deemed to have elected to share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

(6) A person whose interest is subject to an oil or gas lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of subsection (3) of this section.

(7) A certified copy of any pooling order entered under KRS 353.500 to 353.720 shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

Section 31. KRS 353.650 is amended to read as follows:

(1) If one (1) or more of the owners of any operating interest in any portion of the pooled tract shall drill, deepen or reopen and operate, or pay the costs of drilling, deepening or reopening and operating a well for the benefit of another owner of an opening interest, as provided in the pooling order, then such owner or owners shall be entitled to the proceeds from the share of production from the tracts or portions thereof pooled accruing to the interest of such other owner, exclusive of any royalty reserved in any lease or leases of such tracts or portions thereof or exclusive of one-eighth (1/8) of production attributable to all unleased tracts or portions thereof, until such proceeds equal the sums payable by or charged to the interest of the other owner plus a reasonable charge for interest on such sums.

(2) If a dispute shall arise as to the costs of drilling, deepening or reopening, and operating a well, the director ***of oil and gas conservation*** shall determine and apportion the costs.

Section 32. KRS 353.670 is amended to read as follows:

(1) All rules, regulations and amendments promulgated under KRS 353.500 to 353.720 shall be promulgated by the ***Division of Oil and Gas Conservation***[~~department~~] after notice and a hearing. At all hearings held to consider any rules, regulations or amendments thereto, any interested person shall be entitled to be heard.

(2) All hearings held under this section shall be held at such time and place as is specified by the ***division***[~~department~~], and according to rules and regulations promulgated under KRS 353.500 to 353.720. A written record of each hearing shall be kept, unless the keeping of a record shall be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under KRS 353.500 to 353.720.

(3) The director ***of oil and gas conservation***, or his representatives, shall attend all hearings under this section conducted by the ***division***[~~department~~].

(4) All rules, regulations and orders promulgated or issued under KRS 353.500 to 353.720 shall be in writing, shall be entered in full and indexed in books to be kept by the ***division***[~~department~~] for that purpose, shall be public records open for inspection at all times during office hours, and shall be filed in accordance with the provisions of KRS Chapter 13A. A copy of any rule, regulation or order, certified by the commissioner or director ***of oil and gas conservation***, shall be received in evidence in all courts of this Commonwealth without any further authentication thereof.

Section 33. KRS 224.01-400 is amended to read as follows:

(1) As used in this section:

(a) "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous, or semi-solid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. The substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers, or explosive, except that the term "hazardous substance" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section, and shall not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel, or mixtures of natural gas and synthetic gas;

(b) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing hazardous substances, pollutants, or contaminants into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant, but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; the release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of the Act, or any release of source by-product, or special nuclear material from any processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978; and the normal application of fertilizer;

(c) "Site" means any building, structure, installation, equipment, pipe, or pipeline, including any pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage containers, motor vehicles, rolling stock, or aircraft, or any other place or area where a release or threatened release has occurred. The term shall not include any consumer product in consumer use;

(d) "Environmental emergency" means any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by Section 311(b)(3) of the Federal Clean Water Act - (Public Law 92-500), as amended;

(e) "Threatened release" means a circumstance which presents a substantial threat of a release;

(f) "Pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section and shall not include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas);

(g) "Environment" means the waters of the Commonwealth, land surface, surface, and subsurface soils and strata, or ambient air within the Commonwealth or under the jurisdiction of the Commonwealth;

(h) "Financial institution" means, for purposes of subsections (26) and (27) of this section, the following:

1. A bank or trust company defined by KRS Chapter 287;
2. A savings and loan association defined by KRS Chapter 289;
3. A credit union defined by KRS Chapter 290;
4. A mortgage loan company or loan broker defined by KRS Chapter 294;
5. An insurer defined by KRS Chapter 304; and
6. Any other financial institution engaged in the business of lending money, the lending operations of which are subject to state or federal regulation; and

(i) "Fiduciary" means, for purposes of subsections (26) and (27) of this section, a fiduciary as defined by KRS Chapter 386.

(2) The cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A designating individual hazardous substances, pollutants, or contaminants; establishing their respective reportable quantities; and establishing their respective release notification requirements, which differ from those designated or established in subsections (3) to (9) of this section, if necessary to:

(a) Protect human health and the environment;

(b) Maintain consistency with valid scientific development; or

(c) Maintain consistency with newly adopted federal regulations.

(3) The hazardous substances for which release notification is required shall be those hazardous substances designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; those extremely hazardous substances designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986; nerve and blister agents designated under KRS 224.50-130(2); and any hazardous substances designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section.

(4) The reportable quantity for a release of a hazardous substance designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, shall be the quantity designated in 40 C.F.R. Part 302. The reportable quantity for a release of an extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986 shall be the quantity designated in 40 C.F.R. Part 355. The reportable quantity for a release of a nerve or blister agent designated under KRS 224.50-130(2) shall be any quantity. The cabinet may establish reportable quantities for hazardous substances in administrative regulations promulgated pursuant to subsection (2) of this section which differ from those established in this subsection. The reportable quantity for any hazardous substance designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section shall be the reportable quantity established by the cabinet.

(5) The release notification requirements for a release of a hazardous substance designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, shall be the notification requirements established in 40 C.F.R. Part 302. The release notification requirements for a release of an extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986 shall be the notification requirements established in 40 C.F.R. Part 355. Whenever notification of a release or threatened release of a hazardous substance is required pursuant to this section, any person possessing or controlling the hazardous substance shall immediately notify the cabinet's twenty-four (24) hour environmental response line. The cabinet may establish release notification requirements by administrative regulation promulgated pursuant to subsection (2) of this section which differ from those established in this subsection. The release notification requirements for any hazardous substance designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section shall be the release notification requirements established in the cabinet's administrative regulations.

(6) Any person possessing or controlling a pollutant or contaminant for which a reportable quantity has been established by administrative regulation promulgated pursuant to subsection (2) of this section shall immediately notify the cabinet's twenty-four (24) hour environmental response line, as soon as that person has knowledge of any release or threatened release, other than a permitted release or application of a pesticide in accordance with the manufacturer's instructions, of a pollutant or contaminant to the environment in a quantity equal to or exceeding the reportable quantity. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(7) Any person possessing or controlling a pollutant or contaminant shall, as soon as that person has knowledge of any release or threatened release of a pollutant or contaminant from a site to the environment in a quantity which may present an imminent or substantial danger to the public health or welfare, immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release. If a person possessing or controlling a pollutant or contaminant for which a reportable quantity has not been established in administrative regulations promulgated pursuant to subsection (2) of the section fails to report a release or threatened release because of a good-faith belief that the release did not present an imminent or substantial danger to the public health or welfare, that person shall not be liable for a violation of the release notification requirements of this section. In determining whether a person has acted in good faith, the cabinet shall consider the circumstances surrounding the release, including whether the release was a permitted release or the application of a pesticide in accordance with the manufacturer's instructions.

(8) The cabinet may require the person subject to the release notification requirements of subsections (5) to (9) of this section to provide a written report on the release or threatened release. This report shall be submitted to the environmental response section of the cabinet within seven (7) days of the cabinet's demand for the report. The report shall identify the following:

(a) The precise location of the release or threatened release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the release or threatened release;

(c) The name, address, and phone number of persons having actual knowledge of the facts surrounding the release or threatened release;

(d) The specific pollutant or contaminant or hazardous substance released or threatened to be released;

(e) The concentration and quantity of the pollutant or contaminant or hazardous substance in the release or threatened release;

(f) The circumstances and cause of the release or threatened release;

(g) Efforts taken by the person to control or mitigate the release or threatened release;

(h) To the extent known, the harmful effects of the release or threatened release;

(i) The transportation characteristics of the medium or matrix into which the material was released or threatened to be released;

(j) Any present or proposed remedial action by the person at the site of the release or threatened release;

(k) The name, address, and phone number of the person who can be contacted for additional information concerning the release or threatened release; and

(l) Any other information that may facilitate remediation of the site.

(9) A person possessing or controlling a hazardous substance, pollutant, or contaminant shall immediately notify the cabinet pursuant to subsection (5) of this section when release notification, including notification of a continuous release reported under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, is provided to the United States Environmental Protection Agency. Within seven (7) days of providing any written notification to the United States Environmental Protection Agency, the person shall submit to the cabinet a copy of the release notification submitted to the United States Environmental Protection Agency. The cabinet shall not require additional information pursuant to subsection (5) of this section if the release notification is in compliance with this subsection, unless a written report is required under subsection (8) of this section or the release or threatened release constitutes an environmental emergency.

(10) Any person in charge of a vessel or site from which oil is discharged in a harmful quantity as defined by 40 C.F.R. Part 110 in contravention of Section 311 of the Federal Clean Water Act shall immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the discharge, the material discharged, and the approximate quantity and concentration of the discharge.

(11) Any person possessing or controlling petroleum or a petroleum product as defined by KRS 224.60-115[~~(15)~~] shall, as soon as that person has knowledge of any release or threatened release, other than a permitted release or application of a pesticide in accordance with the manufacturer's instructions, in an amount of twenty-five (25) gallons or more in a twenty-four (24) hour period, except for diesel fuel for which the reportable quantity is seventy-five (75) gallons or more in a twenty-four (24) hour period, or in contravention of Section 311 of the Federal Clean Water Act, immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(12) The cabinet may require the person subject to subsections (10) and (11) of this section to provide a written report on the discharge or release. This report shall be submitted to the environmental response section of the cabinet within seven (7) days of the cabinet's demand for the report. The report shall identify the following:

(a) The precise location of the discharge or release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the discharge or release;

(c) The name, address, and phone number of persons having actual knowledge of the facts surrounding the discharge or release;

(d) The concentration and quantity of the discharge or release;

(e) The circumstances and cause of the discharge or release;

(f) Efforts taken by the person to control or mitigate the discharge or release;

(g) To the extent known, the harmful effects of the discharge or release;

(h) The transportation characteristics of the medium or matrix into which the material was discharged or released;

(i) Any present or proposed remedial action by the person at the site of the discharge or release;

(j) The name, address, and phone number of the person who can be contacted for additional information concerning the discharge or release; and

(k) Any other information that may facilitate an emergency spill response, or remediation of the site.

(13) Timely notification received under the release notification requirements of this section or information obtained in a notification received under the release notification requirements of this section may not be used against the person making the notification in any criminal proceeding, except in a prosecution for submitting a false or untimely notification to the cabinet. Notification received by the cabinet of a threatened release or discharge shall not be deemed a separate incident.

(14) The cabinet shall be the lead agency for hazardous substance, pollutant, or contaminant emergency spill response and, after consultation with other affected federal, state, and local agencies and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the release of a hazardous substance, pollutant, or contaminant. The contingency plan shall:

(a) Provide for efficient, coordinated, and effective action to minimize damage to the air, land, and waters of the Commonwealth caused by the release or threatened release of hazardous substances, pollutants, or contaminants;

(b) Include containment, cleanup, and disposal procedures;

(c) Provide for remediation or restoration of the lands or waters affected consistent with this section;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance, and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared, and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing, and disposing of hazardous substances released or being released.

(15) The cabinet shall have the authority, power, and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual and necessary costs expended in response to a threatened release, an environmental emergency, or a release of a hazardous substance that is reportable under this section. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof, or the amount of liability of any person;

(b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of Section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under Section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in the section. The limitations of liability shall apply to the total of state and federal expenses; and

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the release or threatened release is unknown, the cabinet or its agent may contain, remove, or dispose of the hazardous substance, pollutant, or contaminant or take any other action consistent with this section, including, but not limited to, issuance of an emergency order as provided in KRS 224.10-410 to the person possessing, controlling, or responsible for the release or threatened release as necessary for the protection of the environment and public health, safety, or welfare.

(16) Any duly authorized officer, employee, or agent of the cabinet may upon notice to the owner or occupant enter any property, premises, or place at any time for the purposes of this section, if the entry is necessary to prevent damage to the air, land, or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(17) The cabinet shall prepare and annually update an inventory of all sites in the Commonwealth at which there is or has been an environmental emergency or a release of a hazardous substance, pollutant, or contaminant. In preparing the inventory, the cabinet shall determine, based on information available to the cabinet, the impact of each site on public health and the environment and identify the relative priority for restoration or remedial action. Upon determining that no further restoration or remedial action is necessary, the cabinet shall so designate the site on the inventory. A separate designation of sites where a remedial action involving on-site containment or treatment has been performed and other sites where restoration of the environment has not been achieved shall be maintained. A review of environmental conditions at sites remediated by on-site containment or treatment and other sites where restoration or remediation of the environment is not achieved shall be conducted by the cabinet every five (5) years to determine whether additional action is necessary to protect human health or the environment.

(18) Any person possessing or controlling a hazardous substance, pollutant, or contaminant which is released to the environment, or any person who caused a release to the environment of a hazardous substance, pollutant, or contaminant, shall characterize the extent of the release as necessary to determine the effect of the release on the environment, and shall take actions necessary to correct the effect of the release on the environment. Any person required to take action under this subsection shall have the following options:

(a) Demonstrating that no action is necessary to protect human health, safety, and the environment;

(b) Managing the release in a manner that controls and minimizes the harmful effects of the release and protects human health, safety, and the environment, provided that the management may include any existing or proposed engineering or institutional controls and the maintenance of those controls;

(c) Restoring the environment through the removal of the hazardous substance, pollutant, or contaminant; or

(d) Any combination of paragraphs (a) to (c) of this subsection.

(19) Unless otherwise required by the cabinet, a person required to characterize the extent of a release and correct the effect of the release on the environment under subsection (18) of this section may take those actions without making the demonstrations to the cabinet required by subsections (18) to (21) of this section, if:

(a) The release is less than the reportable quantity of a hazardous substance, pollutant, or contaminant;

(b) The release is of a pollutant or contaminant for which a reportable quantity has not been established by administrative regulation promulgated pursuant to subsection (2) of this section, if the release does not present an imminent or substantial danger to the public health or welfare; or

(c) The release is authorized by a state or federal permit.

(20) If a person required to take action under subsection (18) of this section demonstrates to the cabinet that, pursuant to subsection (18)(a) of this section, no action is necessary to protect human health, safety, and the environment or, pursuant to subsection (18)(b) of this section, the release will be managed in a manner that controls and minimizes the harmful effects of the release and protects human health, safety, and the environment, the cabinet shall not require restoration of the environment through the removal of the hazardous substance, pollutant, or contaminant pursuant to subsection (18)(c) of this section.

(21) A person required to take action under subsection (18) of this section who does not restore the environment through removal of the hazardous substance, pollutant, or contaminant in accordance with subsection (18)(c) of this section shall demonstrate to the cabinet that the remedy is protective of human health, safety, and the environment, by considering the following factors:

(a) The characteristics of the substance, pollutant, or contaminant, including its toxicity, persistence, environmental fate and transport dynamics, bioaccumulation, biomagnification, and potential for synergistic interaction and with specific reference to the environment into which the substance, pollutant, or contaminant has been released;

(b) The hydrogeologic characteristics of the facility and the surrounding area;

(c) The proximity, quality, and current and future uses of surface water and groundwater;

(d) The potential effects of residual contamination of potentially impacted surface water and groundwater;

(e) The chronic and acute health effects and environmental consequences to terrestrial and aquatic life of exposure to the hazardous substance, pollutant, or contaminant through direct and indirect pathways;

(f) An exposure assessment; and

(g) All other available information.

(22) A person who submits a proposal to the cabinet pursuant to subsection (18) of this section may request in writing a final determination on the proposal no sooner than thirty (30) days after its submission. When a final determination on the proposal is requested, the cabinet shall make its final determination within sixty (60) working days from the date the request is received by the cabinet. After a final determination has been made, the person requesting the final determination may request a hearing pursuant to the provisions of KRS 224.10-420. Nothing in this subsection shall relieve any person of any obligations imposed by law during an environmental emergency, nor shall it require the cabinet to approve a proposal which would violate this chapter or the administrative regulations promulgated pursuant thereto.

(23) (a) The cabinet shall have a lien against the real and personal property of a person liable for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the property of the person is located.

(b) If a financial institution exempted from liability by subsection (26) of this section conveys the site it has acquired, then the cabinet shall have a lien against the site for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the site is located.

(24) Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to Section 311 of the Federal Clean Water Act (Public Law 92-500) as amended, but shall be used to provide the Commonwealth with a mechanism for additional response to releases and threatened releases of hazardous substances, pollutants, or contaminants.

(25) Defenses to liability, limitations to liability, and rights to contribution shall be determined in accordance with Sections 107(a) to (d) and 113(f) of the Comprehensive Environmental Response Compensation and Liability Act, as amended, and the Federal Clean Water Act, as amended.

(26) In addition to the defenses and limitations provided in subsection (25) of this section, a financial institution that acquired a site by foreclosure, by receiving an assignment, by deed in lieu of foreclosure, or by otherwise becoming the owner as a result of the enforcement of a mortgage, lien, or other security interest held by the financial institution, shall not be liable under this section with respect to the site, if:

(a) The financial institution served only in an administrative, custodial, financial, or similar capacity with respect to the site before its acquisition;

(b) The financial institution did not control or direct the handling of the material causing the environmental emergency, or control or direct the handling of the hazardous substance, pollutant, or contaminants, at the site before its acquisition;

(c) The financial institution did not participate in the day-to-day management of the site before its acquisition;

(d) The financial institution, at the time it acquired the site, did not know and had no reason to know that a hazardous substance, pollutant, or contaminant was disposed at the site. For purposes of this paragraph, the financial institution shall have undertaken, at the time of acquisition, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. What actions constitute all appropriate inquiries shall be determined by taking into account any specialized knowledge or experience on the part of the financial institution, the relationship of the market value of the site to the value of the site if uncontaminated, commonly known or reasonably ascertainable information about the site, the obviousness of the presence or likely presence of contamination at the site, the ability to detect the contamination by appropriate inspection, and any other relevant factor;

(e) The financial institution, when it undertakes actions to protect or preserve the value of the site, undertakes those actions in accordance with this chapter and the administrative regulations adopted pursuant thereto;

(f) The financial institution, its employees, agents, and contractors did not cause or contribute to an environmental emergency, or to a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(g) The financial institution complies with the release notification requirements of subsection (9) of this section.

(27) In addition to the defenses and limitations provided in subsection (25) of this section, a financial institution serving as a fiduciary with respect to an estate or trust, the assets of which contain a site, shall not be liable under this section with respect to the site if:

(a) The financial institution served only in an administrative, custodial, financial, or similar capacity with respect to the site before it became a fiduciary;

(b) The financial institution did not control or direct the handling of the material causing the environmental emergency, or control or direct the handling of the hazardous substance, pollutant, or contaminants, at the site before it became a fiduciary;

(c) The financial institution did not participate in the day-to-day management of the site before it became a fiduciary;

(d) The financial institution, at the time it became a fiduciary, did not know and had no reason to know that a hazardous substance, pollutant, or contaminant was disposed at the site. For purposes of this paragraph, the financial institution shall have undertaken, at the time it became a fiduciary, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. What actions constitute all appropriate inquiries shall be determined by taking into account any specialized knowledge or experience on the part of the financial institution, the relationship of the market value of the site to the value of the site if uncontaminated, commonly known or reasonably ascertainable information about the site, the obviousness of the presence or likely presence of contamination at the site, the ability to detect the contamination by appropriate inspection, and any other relevant factor;

(e) The financial institution, when it undertakes actions to protect or preserve the value of the site, undertakes those actions in accordance with this chapter and the administrative regulations adopted pursuant thereto;

(f) The financial institution, its employees, agents, and contractors did not cause or contribute to an environmental emergency, or to a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(g) The financial institution complies with the release notification requirements of subsection (9) of this section.

Section 34. KRS 224.01-512 is amended to read as follows:

As used in KRS 224.01-510 to 224.01-532:

(1) "Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), and any hazardous substance included in KRS 224.01-400(3);

(2) "Petroleum" shall have the meaning set forth in KRS 224.60-115[~~(15)~~];

(3) "Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115[~~(16)~~];

(4) "Property" means a tract of real property for which an application has been submitted under KRS 224.01-514;

(5) "Remediation" means the characterization of a release of a hazardous substance or petroleum, in accordance with KRS 224.01-400(18) for hazardous substances or KRS 224.01-405 for petroleum, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.01-400 for hazardous substances, pollutants, or contaminants or KRS 224.01-405 for petroleum; and

(6) "Site" shall have the meaning in KRS 224.01-400(1)(c).

Section 35. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall consist of a financial responsibility account and a petroleum storage tank account. Each account shall be maintained as a separate and distinct interest-bearing account. Interest credited to an account shall be retained in that account. All of the following amounts shall be deposited in the fund:

(a) Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account;

(b) One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;

(c) Money appropriated by the General Assembly for deposit in each account;

(d) Any money recovered by the fund pursuant to this section shall be deposited in the appropriate account; and

(e) Any money collected in the form of penalties levied pursuant to KRS 224.60-155 shall be deposited to the appropriate account.

(2) Money in the fund, financial responsibility account and the petroleum storage tank account shall be used by the office for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action required by the cabinet to be undertaken as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established in law or administrative regulation by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130***(1)(i)***[~~(2)(j)~~];

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage, related to a facility eligible for participation in the financial responsibility account, which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable, prorated costs incurred by the office in administering each account; and

(d) The cost to operate the small operators' assistance account pursuant to KRS 224.60-130***(1)***[~~(2)~~](d), the small operators' tank removal account pursuant to KRS 224.60-130***(1)(i)***[~~(2)(j)~~], to perform or contract for the performance of financial audits conducted under KRS 224.60-130***(1)(j)***[~~(2)(k)~~], and to employ sufficient ***inspectors***[~~assurance fund auditors~~] to carry out the provisions of KRS 224.60-130 and to set forth their duties. These costs shall be prorated to each account.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the office for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the office.

(7) The office or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. The office shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The office shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days. When the office receives information that corrects the deficiency, or at the end of the thirty (30) day period, the office shall complete the review of the claim within the time remaining in the ninety (90) day review period. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the office from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the office's cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the office pursuant to this section shall be deposited in the appropriate account.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The appropriate account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the office shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the office and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the office. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the office shall certify, by affidavit, on standard forms furnished by the office, that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the office who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the office who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 36. The following KRS sections are repealed:

224.10-030 Bodies attached for administrative purposes.

224.10-055 Powers and duties of Governor.

224.10-060 Prior energy regulations and actions in effect until modified.

Section 37. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 38. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends or repeals the administrative regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the administrative regulations that require any changes to the regulations compiler.

Section 39. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2003-064, dated December 23, 2003, relating to the Environmental and Public Protection Cabinet, and the Governor's Executive Order 2003-513, dated May 22, 2003, and the Governor's Executive Order 2004-031, dated January 6, 2004, to the extent they are not otherwise confirmed or superseded by this Act.

SB 222, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.46-580 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.

(2) The Natural Resources and Environmental Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.01-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that

results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Natural Resources and Environmental Protection Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, ***2006***~~[2004]~~. After this date, no further hazardous waste management assessment shall be charged against generators.

(8) The assessment on generators shall be one and two-tenths cents ($0.012) per pound if the waste is liquid, or two-tenths of a cent ($0.002) per pound if the waste is solid.

(a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;

(b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt;

(c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt; and

(d) Emission control dust and sludge from the primary production of steel that is recycled by high temperature metals recovery or managed by stabilization of metals shall be exempt.

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.

(13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three

million dollars ($3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.

(14) There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill. The cabinet shall provide to the center estimates of the amount of the hazardous waste assessment expected to be collected during each upcoming fiscal year.

(15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(16) If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(17) If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(18) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

SB 224, AN ACT relating to underground storage tanks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-130 is amended to read as follows:

(1) There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.

(2) The Office of Petroleum Storage Tank Environmental Assurance Fund shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the office may distinguish between types, classes, and ages of petroleum storage tanks. The office may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the office for reimbursement from the fund for the performance of corrective action. At a minimum, the office shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the office shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The office may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the office on or before January 15, ***2008***~~[2004]~~. To insure cost effectiveness, the office shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the office may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the office;

(d) Establish a small operator assistance account within the fund which may be used by the office to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, ***2013***~~[2009]~~. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, ***2004***~~[2002]~~, the office shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The office shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the office shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the office regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the office, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The office shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the office may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The office may collect soil or water samples or require storage tank owners or operators to split samples with the office for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the office to collect or split samples shall make the facility ineligible for fund participation;

(m) Have assurance fund auditors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the office schedule an assurance fund auditor to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an auditor fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the assurance fund no later than ten (10) days prior to the proposed date that an auditor is not available on the proposed date, in which event a representative of the assurance fund shall contact the operator and schedule a new date. If no auditor is present at the rescheduled date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter[~~ or by July 15, 2010, whichever is earlier. Claims received after July 15, 2010, are not eligible for reimbursement~~].

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, ***2008***[~~2004~~].

(3) The office may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(4) The office may sue and be sued in its own name.

(5) The office may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The office may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (2)(c) of this section.

Section 2. KRS 224.60-142 is amended to read as follows:

(1) To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, ***2004***[~~2002~~], shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.

(2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ***2006***[~~2004~~]. Owners or operators may submit affidavits and applications relevant to current petroleum storage tank accounts through July 15, ***2006***[~~2004~~].

Section 3. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Revenue Cabinet shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small

operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, ***2008***~~[2004]~~, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

SJR 3, A JOINT RESOLUTION relating to vehicle emissions control testing.

WHEREAS, in various areas of the Commonwealth vehicle emissions testing (VET) programs have operated since 1984; and

WHEREAS, since 1984, the regulation of pollutants has tighten and technological controls on a variety of air emission sources, including vehicles, have improved; and

WHEREAS, gasoline formulations have changed to reduce harmful components; and

WHEREAS, approximately 98% of vehicles tested pass the first time tested for emissions; and

WHEREAS, VET programs are seen by many citizens as an imposition, unnecessary, and ineffective to achieve the program's purpose; and

WHEREAS, federal law allows various approaches to attaining air quality; and

WHEREAS, KRS 224.20-715 provides that "The cabinet shall administer or provide for a comprehensive vehicle emission control program which may require the annual inspection of vehicles in counties designated by federal Environmental Protection Agency regulation to be nonattainment for ozone, carbon monoxide, or nitrogen dioxide if a program is necessary or prudent to meet federal air quality standards and if no federal Environmental Protection Agency approved program is being operated by an air pollution control district, county fiscal court, or combination of county fiscal courts"; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet by administrative regulation 401 KAR 65:010 requires the establishment of VET programs in "Vehicle Emission Control Areas," which are defined in that administrative regulation as counties in which the entire county has been designated "moderate ozone nonattainment"; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet's administrative regulation 401 KAR 65:010 also provides that the VET programs established pursuant to the administrative regulation shall continue upon redesignation of the program areas to "attainment" for ozone; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet's "Northern Kentucky Emissions Check" vehicle emissions testing program is currently operating in counties which are no longer designated moderate ozone nonattainment; and

WHEREAS, the Commonwealth's only other VET program operated in an area that is also no longer in nonattainment status and has been eliminated; and

WHEREAS, the Finance and Administration Cabinet has entered into a 10-year price contract, PCT NO.: BP010138, for emissions testing related to the Northern Kentucky Emissions Check program; and

WHEREAS, that contract provides for termination, with 90 days' notice, of the contract by either party at any time due to termination of the vehicle emission control program for any of the subject counties, or due to federal or legislative changes or court decisions, or for other reasons;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Northern Kentucky Emissions Check Program as established and implemented by the Natural Resources and Environmental Protection Cabinet is declared unconstitutional, illegal, and unenforceable as, first, an attempt by the executive branch to bind the General Assembly to a mandatory testing agreement in excess of a biennium and, second, because it purports to create an obligation or debt on the part of the Commonwealth in violation of Sections 46, 49, and 50 of the Constitution of the Commonwealth. Any contract terms entered into to establish and implement the Northern Kentucky Emissions Check Program that purport to bind the Commonwealth to its terms or to create a debt payable by the Commonwealth is declared unconstitutional, illegal, and unenforceable.

Section 2. Provisions of the contract which require mandatory emissions testing beyond two years of the original implementation date or which require the Commonwealth to pay any amount due to an action of the General Assembly are unenforceable against the vendor and the Commonwealth under Section 41.800 of price contract, PCT No. BP010138 and both parties are hereby relieved of any obligation under the provisions of that contract declared unconstitutional, illegal, and unenforceable by the provisions of this resolution.

Section 3. The Natural Resources and Environmental Protection Cabinet and the Transportation Cabinet are directed to take any and all measures necessary to ensure that no motor vehicle owner whose vehicle is subject to testing by the Northern Kentucky Emissions Check testing program is refused registration reinstatement, or denied vehicle registration, or subjected to registration revocation after October 31, 2004, for failure to comply with Northern Kentucky Emissions Check program requirements prior to November 1, 2004.

The House Committee Substitute to **SJR 3** is as follows:

SJR 3, A JOINT RESOLUTION relating to vehicle emissions control testing.

WHEREAS, in various areas of the Commonwealth, vehicle emissions testing (VET) programs have operated since 1984; and

WHEREAS, gasoline formulations have changed to reduce harmful components; and

WHEREAS, approximately 98 percent of vehicles tested pass the first time tested for emissions; and

WHEREAS, federal law allows various approaches to attaining air quality; and

WHEREAS, KRS 224.20-715 provides that "The cabinet shall administer or provide for a comprehensive vehicle emission control program which may require the annual inspection of vehicles in counties designated by the federal Environmental Protection Agency regulation to be nonattainment for ozone, carbon monoxide, or nitrogen dioxide if a program is necessary or prudent to meet federal air quality standards and if no federal Environmental Protection Agency approved program is being operated by an air pollution control district, county fiscal court, or combination of county fiscal courts"; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet, by administrative regulation 401 KAR 65:010, requires as a part of the State Implementation Plan for the 1-hour ozone standard the establishment of VET programs in "Vehicle Emission Control Areas," which are defined in that administrative regulation as counties in which the entire county has been designated "moderate ozone nonattainment"; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet's administrative regulation 401 KAR 65:010 also provides that the VET programs established pursuant to the administrative regulation shall continue upon redesignation of the program areas to "attainment" for ozone; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet's Northern Kentucky Emissions Check vehicle emissions testing program is currently operating in counties which are no longer designated moderate ozone nonattainment; and

WHEREAS, the Louisville Metro Air Pollution Control District has discontinued its vehicle emissions testing program pursuant to KRS 77.320; and

WHEREAS, the Louisville Metro Air Pollution Control District has, through the Natural Resources and Environmental Protection Cabinet, submitted a revision to the State Implementation Plan for the 1-hour ozone standard that would eliminate its vehicle emissions testing program; and

WHEREAS, the United States Environmental Protection Agency has not yet approved the revision submitted by the Louisville Metro Air Pollution Control District; and

WHEREAS, the United States Environmental Protection Agency is scheduled to designate areas for attainment of new National Ambient Air Quality Standards relating to ozone formation in April, 2004, referred to as the "8-hour ozone standard," and is scheduled to designate areas for attainment in December, 2004, for the "2.5 fine particulate standard"; and

WHEREAS, the new standards may result in the redesignation of the areas covered by the Northern Kentucky Emissions Check program and the Louisville Metro Air Pollution Control District as nonattainment;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Natural Resources and Environmental Protection Cabinet is directed to submit to the United States Environmental Protection Agency a revision of the State Implementation Plan for the 1-hour ozone standard that would remove the vehicle emissions testing program provided for in 401 KAR 65:010 in the area served by the Northern Kentucky Emissions Check testing program not later than August 1, 2004.

Section 2. The Northern Kentucky Emissions Check Program as established and implemented by the Natural Resources and Environmental Protection Cabinet is declared unconstitutional, illegal, and unenforceable as, first, an attempt by the executive branch to bind the General Assembly to a mandatory testing agreement in excess of a biennium and, second, because it purports to create an obligation or debt on the part of the Commonwealth in violation of Sections 46, 49, and 50 of the Constitution of the Commonwealth. Any contract terms entered into to establish and implement the Northern Kentucky Emissions Check Program that purport to bind the Commonwealth to its terms or to create a debt payable by the Commonwealth is declared unconstitutional, illegal, and unenforceable.

Section 3. Provisions of the contract which require mandatory emissions testing beyond two years of the original implementation date or which require the Commonwealth to pay any amount due to an action of the General Assembly are unenforceable against the vendor and the Commonwealth under Section 41.800 of price contract, PCT No. BP010138 and both parties are hereby relieved of any obligation under the provisions of that contract declared unconstitutional, illegal, and unenforceable by the provisions of this resolution.

Section 4. Upon approval of the State Implementation Plan revision, the Natural Resources Environmental Protection Cabinet and the Transportation Cabinet are directed to take any and all measures necessary to ensure that no motor vehicle owner whose vehicle is subject to testing by the Northern Kentucky Emissions Check testing program is refused registration reinstatement, denied vehicle registration, or subjected to registration revocation after cancellation of the program for failure to comply with Northern Kentucky Emissions Check program requirements prior to its cancellation.

Section 5. In the event that the area served by the Northern Kentucky Emissions Check testing program is redesignated as nonattainment under the 8-hour ozone or 2.5 fine particulate standards, the Natural Resources and Environmental Protection Cabinet is directed to formulate a State Implementation Plan for these standards that does not rely upon a vehicle emissions testing program, unless the same is required by law or necessary for the approval of the State Implementation Plan.

Section 6. The Natural Resources and Environmental Protection Cabinet is directed to provide technical assistance, if requested, to the Louisville Metro Air Pollution Control District to find compensating reductions in emissions by the United States Environmental Protection Agency, so that the State Implementation Plan for these standards does not rely upon a vehicle emissions testing program, unless the same is required by law or necessary for the approval of the State Implementation Plan.

The Committee on Local Government reported **HB 586, 619, 669, 703, HCR 198, SB 109**, and **SB 142** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 586, AN ACT relating to county surcharges on local event tickets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Organized event" means any activity where spectators normally pay to gain admission, including but not limited to motor vehicle racing, concerts, or other planned and publicized gatherings for which there is a fee for admission;

(b) "Motor vehicle racing" means an organized event operated for profit and not a part of the highway system where motor vehicles may be driven in contests of speed or endurance, and spectators normally pay to gain admission; and

(c) "Private entertainment facility" means any property where an organized event is held if the property is not owned by or leased from a governmental entity, except for facilities regulated by KRS Chapter 230. If a facility was originally constructed or otherwise made possible through the issuance or sale of governmental bonds, but is generally operated by a private owner for profit, the facility is a private entertainment facility.

(2) Fiscal courts in counties containing a private entertainment facility capable of seating over fifty thousand (50,000) persons for an organized event may levy a surcharge equal to not more than three percent (3%) of the admission price on all tickets sold for an organized event at that private entertainment facility.

(3) The surcharges imposed under this section shall be collected by the private entertainment facility owner from the spectators.

(4) The surcharges collected under this section shall be deemed to be held in trust by the owner for and on account of the fiscal court of the county.

(5) The surcharges to be collected under this section shall constitute a debt of the owner to the fiscal court of the county.

(6) On or before the twentieth day of the month following each fiscal year quarter, a return for the preceding quarter shall be filed with the fiscal court in such form as the fiscal court may prescribe. The owner may retain not more than one-half of one percent (0.5%) of the total balance of surcharges collected under this section to cover administrative and other costs associated with collecting and holding the surcharges.

(7) All moneys collected by the county from the surcharge on tickets shall be placed in a fund to be applied toward priority categories limited to the following:

(a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

(c) Public transportation, including mass transit systems, streets, and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, the elderly, and individuals with disabilities;

(h) Industrial and economic development;

(i) Vocational education; and

(j) Workforce training.

HB 619, AN ACT relating to the preparation of maps for the annexation, transference, or severance of land by cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.470 is amended to read as follows:

(1) If the limits of a city are enlarged or reduced, the city shall, within sixty (60) days of the enlargement or reduction, cause an accurate map of the annexed, transferred, or severed area[~~ with a metes and bounds description~~], together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located, in the office of the Secretary of State, and in the Department for Local Government. ***The map shall depict the parcel annexed, transferred, or severed as a closed geometric figure on a plat annotated with bearings and distances prepared by a professional land surveyor. The professional land surveyor shall clearly state on the plat the recorded plats, right-of-way plans, or other resources used to develop the map depicting the municipal boundary. Preparation of a map pursuant to this section shall not require a field survey.***

(2) No city which has annexed unincorporated or accepted transfer of incorporated territory may levy any tax upon the residents or property within the annexed or transferred area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475.

HB 669, AN ACT relating to county clerk fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.012 is amended to read as follows:

(1) The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire thereof does not exceed three (3) pages	$8.00
Exceeding three (3) pages, for each page	2.00
Copy and certification of same when ordered	5.00
Each bond required to be taken or prepared by the clerk	3.00
Copy of any bond when ordered	2.00
Recording a bond, each bond	8.00
Receiving the acknowledgment or proof of any deed, mortgage, or agreement, power of attorney, or other written instrument required by law to be done and certifying same	2.00
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of deed	5.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of real estate mortgage	5.00
Recording deed of assignment of real estate mortgage	8.00
Noting release of any lien, mortgage, or redemption other than a deed of release	3.00
Receiving the acknowledgment, recording, and certifying each deed of release of a mortgage or lien under KRS 382.360	8.00
Each additional marginal notation relating to same instrument	3.00
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	8.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	8.00

Every order concerning the establishment, changing, closing, or

discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	2.00
Administering an oath and certificate thereof	2.00
Issuing license for which no other fee is fixed by law	5.00
Marriage license, bond, certificate and recording	24.00
For filing and indexing an original or continuation financing statement	8.00
For noting a security interest on a certificate of title under KRS Chapter 186A	12.00
For filing and indexing an assignment of a financing statement	8.00
For filing and noting a statement of release of collateral under a financing statement	5.00
Recording real estate options, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	15.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Marginal notation to same instrument	3.00
Filing or recording of certification of intention to operate a business under an assumed name	8.00
Filing a lien on a delinquent motor vehicle or trailer bill	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill	2.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	8.00
Filing or recording of notice of lien issued by the Internal Revenue Service	8.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	8.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording United States liens, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien	

on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	200.00
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	20.00
Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	20.00
Filing notification and declaration and petition of candidates for other offices	50.00
Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class	50.00
Recording wills or other probate documents under KRS 394.300	8.00
Registration of licenses for professional persons required to register with the county clerk	8.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages (except military discharges)	8.00
Exceeding three (3) pages, each additional page	2.00
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page	2.00
Filing petitions other than nominating petitions, provided the petition does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page, except that the total fee for filing a petition other than a nominating petition shall not exceed $50.00	2.00
Filing certification required by KRS 65.070(1)(a)	5.00
Certification of franchise tax assessment	5.00

(2) The county clerk shall permit an individual to duplicate public records using the individual's own portable photographic device or portable digital image scanner if the duplication will not damage or alter the original records. The county clerk shall not receive a fee for duplication of records under this section.

(3) The county clerk may receive up to fifty cents ($.50) per page for any record duplicated by the county clerk.

HB 703, AN ACT relating to county detectives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 69.360 is amended to read as follows:

A county attorney may, as funding allows, employ one (1) or more county detectives. ***County detectives shall have the power of***

arrest in the county and the right to execute process statewide. They shall assist the county attorney in all matters pertaining to his office in the manner he designates and shall assist him in the preparation of all criminal cases in District Court by investigating the evidence and facts connected with such cases.

HCR 198, A CONCURRENT RESOLUTION requesting the Interim Joint Committee on Local Government to conduct a census of the planning units within the Commonwealth of Kentucky.

WHEREAS, KRS Chapter 100 allows local governments to create local planning units, but does not contain any statutory requirement to report the creation of a planning unit to the legislature or to any executive branch agency; and

WHEREAS, the last formal census pertaining to the existence and constituency of the planning commissions within the Commonwealth was last executed in 1998; and

WHEREAS, acquiring updated information will guide the General Assembly in making sound decisions regarding any land use legislation that is proposed or considered;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Local Government is requested to consult with the Department for Local Government, the Area Development Districts, and any other entities it deems necessary to conduct a census of all the planning units within the Commonwealth of Kentucky and, furthermore, to identify the following:

(1) Joint planning units;

(2) Independent planning units;

(3) Planning units without land use ordinances;

(4) Counties and cities that have not adopted the provisions of KRS Chapter 100; and

(5) Any other information relative to the constituency of planning units within the Commonwealth.

Section 2. The committee is requested to include its findings and any recommendations in the committee's report for the 2004 Interim.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 109, AN ACT relating to factory-built housing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.550 is amended to read as follows:

As used in this section to KRS 227.660, 227.990, and 227.992, unless the context requires a different definition:

(1) "Board" means the Manufactured Home Certification and Licensure Board or the Recreational Vehicle Certification and Licensure Board.

(2) "***Seal" means the U.S. Department of Housing and Urban Development seal for manufactured homes and the Class A Seal for recreational vehicles***[~~Class A seal" means a device or insignia issued by the office to indicate compliance with the standards, rules, and regulations established by the office or the board for recreational vehicles~~].

(3) "Class B***1*** Seal" ***and "Class B2 Seal" mean seals*** [~~means a seal~~] issued pursuant to subsection (3) of KRS 227.600.

(4) "***Retailer***[~~Dealer~~]" means any person, firm, or corporation, who sells or offers for sale ***two (2)***[~~three (3)~~] or more manufactured homes, mobile homes, or recreational vehicles in any consecutive twelve (12) month period. The term "***retailer***[~~dealer~~]" shall not include:

- (a) A manufacturer, as defined in this section;
- (b) Any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to the disposition of its own repossessed manufactured housing; or
- (c) A licensed real estate agent who acts as a negotiator between an owner and a prospective purchaser and does not acquire ownership or possession ***of manufactured homes*** for resale purposes[~~ of three (3) or more manufactured homes in any consecutive twelve (12) month period~~].

(5) "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a ***retailer***[~~dealer~~], which shall include the books, records, files, and equipment necessary to properly conduct such business, or a building having sufficient space therein in which the functional duties of a ***retailer***[~~dealer~~] may be performed. The place of business shall not consist of a residence, tent, temporary stand, or open

lot. It shall display a suitable sign identifying the ***retailer***[~~dealer~~] and his business.

(6) "Federal act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder.

(7) "Manufactured home" means a single-family residential dwelling constructed in accordance with the federal act, manufactured after June 15, 1976, and designed to be used as a single-family residential dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The manufactured home may also be used as a place of business, profession, or trade by the owner, the lessee, or the assigns of the owner or lessee and may comprise an integral unit or condominium structure. Buildings the construction of which is not preempted by the federal act are subject to building code requirements of KRS Chapter 198B.

(8) "***Factory-built***[~~Manufactured~~] housing" means manufactured homes, mobile homes, recreational vehicles, ***or*** mobile office[~~ or commercial~~] units[~~, add a rooms, or cabanas~~].

(9) "Manufacturer" means any person who manufactures manufactured homes or recreational vehicles and sells to Kentucky ***retailers***[~~dealers~~].

(10) "Mobile home" means a ***factory-built*** structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act[~~, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure~~].

(11) "Office" means the office of the state fire marshal.

(12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. It shall include recreational vehicles which are regulated as to length, width, and registration by KRS Chapter 186. The basic entities are: travel trailer, camping trailer, truck camper, motor home, and park vehicle.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units, or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck campers: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(d) Park vehicle: A vehicle which:

1. Is built on a single chassis mounted on wheels;

2. Is primarily designed as temporary living quarters for seasonal or destination camping and which may be connected to utilities necessary for operation of installed fixtures and appliances;

3. Has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode;

4. Has a gross trailer area not less than two hundred forty (240) square feet and is certified by the manufacturer as complying with ANSI A119.5, Park Vehicles.

(e) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(13) "Secretary" means the Secretary of the Federal Department of Housing and Urban Development.

(14) "ANSI" means the American National Standards Institute.

Section 2. KRS 227.555 is amended to read as follows:

(1) Every manufactured or mobile home as defined in KRS 227.550 shall have:

(a) At least one (1) working smoke detector located inside the home near the bedroom areas on each floor level; and

(b) At least two (2) operable means of egress, if the home was originally equipped with at least two (2) means.

(2) The Department of Housing, Buildings and Construction, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, shall design and cause to be placed:

(a) At each vehicle entrance to a ***manufactured***[~~mobile~~] home park ***or community*** as defined in KRS 219.320, a notice stating the requirements set out in subsection (1) of this section, the penalty for noncompliance set out in subsection (5) of this section, and any other information it deems necessary to effect the purposes of this section; and

(b) In each county clerk's office, a notice stating the requirements set out in subsection (1) of this section, the penalty for noncompliance set out in subsection (5) of this section, and any other information it deems necessary to effect the purposes of this section.

(3) No public servant with the authority to issue a citation shall enter a manufactured or mobile home solely for the purpose of determining whether or not the manufactured or mobile home is in compliance with this section.

(4) No ordinance contrary to subsections (1) and (3) of this section may be enacted by any unit of local government, and the provisions of subsections (1) and (3) shall supersede any local ordinance to the contrary. The provisions of this subsection shall not apply to any city which has adopted or may in the future adopt the Uniform Residential Landlord and Tenant Act under KRS Chapter 383.

(5) The owners of manufactured homes and mobile homes located within a ***manufactured***~~[mobile]~~ home park ***or community*** which do not comply with subsection (1) of this section shall be responsible for the correction of any violation.

(6) Any person who violates subsection (1) of this section shall be guilty of a violation.

Section 3. KRS 227.560 is amended to read as follows:

(1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to ***retailers and shall certify installers***~~[dealers]~~.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for Public Health, or their designees, and seven (7) citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home ***retailers***~~[dealers]~~, one (1) certified manufactured or mobile home installer, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for Public Health shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his or her successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years. In the initial appointment of the certified manufactured or mobile home installer to the board, the Governor shall designate the member to serve for a term expiring September 1, 2004.

(5) ***All members appointed from the manufactured housing industry shall be required to remain licensees of the office during their term and are subject to removal for chronic absenteeism.***

(6) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(7)~~[(6)]~~ The chairman of the board shall be elected by the board. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(8)~~[(7)]~~ Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(9)~~[(8)]~~ The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.

(10)~~[(9)]~~ All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 4. KRS 227.565 is amended to read as follows:

(1) There is hereby created the Recreational Vehicle Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to ***retailers***~~[dealers]~~.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for Public Health, or their designees, and six (6) citizens of the Commonwealth appointed by the Governor, which shall include one (1) manufacturer of recreational vehicles and two (2) recreational vehicle ***retailers***~~[dealers]~~, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for Public Health shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each

member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years.

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 5. KRS 227.570 is amended to read as follows:

(1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes and for recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board or the Recreational Vehicle Certification and Licensure Board.

(2) The office shall enforce such standards and requirements for the body and frame design, construction, and installation of mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board. If any part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.

(3) ***All***[~~New~~] installations of manufactured homes and mobile homes shall be ***performed by an installer certified under the provisions of Section 3 of this Act*** in accordance with the manufacturer's instructions***, if available,*** or ANSI 225.1, Manufactured Home Installations.

Section 6. KRS 227.590 is amended to read as follows:

(1) The board shall make and the office shall enforce rules and regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out their responsibilities as a state administrative agency for the enforcement and administration of the federal act.

(2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in subsection (5) of this section the office shall mail to all manufacturers possessing valid certificates of acceptability and ***retailers***[~~dealers~~] possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation or modification, amendment, or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

(4) Notwithstanding the provisions of KRS 227.550 to 227.660, the board shall have the authority to promulgate rules and regulations exempting manufacturers and ***retailers***[~~dealers~~] from the provisions of KRS 227.550 to 227.660 when manufactured homes, mobile homes, and recreational vehicles are brought into this state for exhibition only.

(5) All rules, regulations, codes, fees, and charges adopted by the board pursuant to KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS Chapter 13A.

(6) The board shall have the authority to promulgate rules and regulations to issue temporary licenses, not to exceed thirty (30) days, to out-of-state ***retailers***[~~dealers~~] for the purpose of participating in manufactured home and recreational vehicle shows in the Commonwealth of Kentucky.

Section 7. KRS 227.600 is amended to read as follows:

(1) No manufacturer who has received a certificate of acceptability from the office may sell or offer for sale in this state any recreational vehicles unless they bear a seal of approval issued by and purchased from the office.

(2) Seals issued by the office shall be numbered and shall be affixed by the manufacturer to the recreational vehicle in a conspicuous place.

(3) Any ***retailer***[~~dealer~~] who has acquired a ***previously-owned***[~~used~~] manufactured home, mobile home, or recreational vehicle without a seal shall apply to the office for ***the appropriate***[~~a Class B~~] seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the board for ***previously-owned***[~~used~~] manufactured homes, mobile homes, or recreational vehicles. Those manufactured homes or mobile homes taken in trade must be reinspected and certified. A numbered Class B***1*** Seal shall be affixed by the ***retailer***[~~dealer~~] to the unit prior to sale. A seal will not be required if such ***retailer***[~~dealer~~] submits an affidavit that the unit will not be resold for use as such by the public. A ***retailer***[~~dealer~~] shall not transport or install a manufactured or mobile home which is to be used for residential purposes which does not have a[~~ Class A or~~] Class B***1*** Seal.

(4) The owner of any manufactured home or mobile home which is not covered by the federal act or a recreational vehicle purchased in another state and not bearing a seal of approval shall purchase a seal from the office. Application to purchase a seal of approval shall be made to the office or other person or agency authorized by the state fire marshal.

(5) The office shall make available suitable forms for application for seals of approval for new and ***previously-owned***[~~used~~] recreational vehicles and for ***previously-owned***[~~used~~] manufactured homes or mobile homes which are not covered by the federal act and recreational vehicles.

(6) The clerk of the county in which a manufactured home, mobile home, or recreational vehicle is sought to be registered after June 1, 1976, which was purchased out of Kentucky, shall require production of proof of purchase of a seal of approval as provided in subsection (4) of this section before registering or issuing a license for any manufactured home, mobile home, or recreational vehicle.

Section 8. KRS 227.610 is amended to read as follows:

The office shall***, after approval by the board,*** license ***retailers***[~~dealers~~] under the provisions of KRS 227.550 to 227.660. The office may make the issuance of a license contingent upon the applicant's chief managing officer passing a test administered by the office. ***Before issuing a license, the office shall require proof of liability insurance which shall name the office in the certificate of insurance, and the license shall be null and void if there is a lapse of coverage in insurance.***

Section 9. KRS 227.620 is amended to read as follows:

(1) No ***retailer***[~~dealer~~] shall engage in business as such in this state without a license therefor as provided in KRS 227.550 to 227.660.

(2) Application for license shall be made to the ***board***[~~office~~] at such time, in such form and contain such information as the ***board***[~~office~~] shall require and shall be accompanied by the required fee. The ***board***[~~office~~] may require in such application, or otherwise, such information as it deems commensurate with the safeguarding of the public interest in the locality in which said applicant proposes to engage in business, all of which may be considered by the ***board***[~~office~~] in determining the fitness of said applicant to engage in business as set forth in KRS 227.550 to 227.660.

(3) All licenses shall be granted or refused within thirty (30) days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

(4) The license fee for such calendar year or part thereof shall be established by the board, subject to the following maximums:

  (a) For manufacturers a "certificate of acceptability" shall be subject to a maximum of five hundred dollars ($500).

  (b) For ***retailers***[~~dealers~~] the maximum license fee shall be two hundred fifty dollars ($250) for each established place of business.

  (c) The fee for a "Class A Seal" or a "Class B Seal" ***for recreational vehicles*** shall be established by the board subject to a maximum of twenty-five dollars ($25) per seal.

  (d) ***The fee for a "Class B1 Seal" and "Class B2 Seal" for manufactured and mobile homes shall be established by the board subject to a maximum of twenty-five dollars ($25) per seal.***

  (e) The office may establish a monitoring inspection fee in an amount established by the secretary. This monitoring inspection fee shall be an amount paid by each manufactured home manufacturer in this state for each manufactured home produced by the manufacturer in this state. The monitoring inspection fee shall be paid by the manufacturer to the secretary or the secretary's agent, who shall distribute the fees collected from all manufactured home manufacturers among the states approved and conditionally approved by the secretary based on the number of new manufactured homes whose first location after leaving the manufacturing plant is on the premises of a distributor, ***retailer***[~~dealer~~], or purchaser in that state, and the extent of participation of the state in the joint team monitoring program established under the National Manufactured Housing Construction and Safety Standards Act of 1974***, as amended***.

(5) All revenues raised through the provisions of subsections (4)(a), (b), and (c), and funds paid to the state by the secretary under the provisions of subsection (4)(d) of this section shall be deposited in a trust and agency fund and shall be used solely for the purpose of carrying out the provisions of KRS 227.550 to 227.660 and other departmental responsibilities. No amount of such trust and agency fund shall lapse at the end of any fiscal year.

(6) The licenses of ***retailers***[~~dealers~~] shall specify the location of the established place of business and must be conspicuously displayed there. In case such location be changed, ***the retailer shall notify the office of any change of location, and*** the office shall endorse the change of location on the license without charge if it be within the same municipality. A change of

location to another municipality ***or to a county which is not adjacent to the county where the business is located*** shall require a new license.

(7) Every ***retailer***[~~dealer~~] licensed in accordance with the provisions of this section shall make reports to the office at such intervals and showing such information as the office may require.

(8) Each manufacturer, distributor of manufactured homes or mobile homes, and ***retailer***[~~dealer~~] of manufactured or mobile homes shall establish and maintain such records, make such reports, and provide such information as the office or the secretary may reasonably require to be able to determine whether such manufacturer, distributor, or ***retailer***[~~dealer~~] has acted or is acting in compliance with KRS 227.550 to 227.660 or the federal act and shall, upon request of a person duly designated by the office or secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or ***retailer***[~~dealer~~] has acted or is acting in compliance with KRS 227.550 to 227.660 or the federal act.

Section 10. KRS 227.630 is amended to read as follows:

(1) A license, ***certification***, or certificate of acceptability may be denied, suspended, or revoked on the following grounds:

(a) A showing of insolvency in a court of competent jurisdiction;

(b) Material misstatement in application for license, ***certification***, or certificate of acceptability;

(c) Willful failure to comply with any provisions of KRS 227.550 to 227.660 or any rule or regulation promulgated by the board under KRS 227.550 to 227.660;

(d) Willfully defrauding any buyer;

(e) Willful failure to perform any written agreement with any buyer or ***retailer***[~~dealer~~];

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required insurance;

(h) Making a fraudulent sale, transaction, or repossession;

(i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(j) Failure by a ***retailer***[~~dealer~~] to put the title to a manufactured home, mobile home, or recreational vehicle in his name after said ***retailer***[~~dealer~~] has acquired ownership of the manufactured home, mobile home, or recreational vehicle by trade or otherwise;

(k) Violation of any law relating to the sale or financing of manufactured homes, mobile homes, or recreational vehicles.

(2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his ***or her salespersons***[~~salesmen~~] while acting as his agent while the said agent is acting within the scope of his authority.

(3) Upon proceedings for the suspension of a license, ***certification***, or certificate of acceptability for any of the violations enumerated in KRS 227.550 to 227.660, the licensee or holder of a certificate of acceptability may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars ($50) per day. Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general expenditure fund.

Section 11. KRS 227.640 is amended to read as follows:

(1) The ***board***[~~state fire marshal~~] may deny the application for a license, ***certification***, or certificate of acceptability within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(2) No license, ***certification***, or certificate of acceptability shall be suspended or revoked by the ***board***[~~state fire marshal~~] unless the licensee or certificate holder is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.

(3) Any manufacturer, ***certified installer***, or licensed ***retailer***[~~dealer~~] who violates or fails to comply with KRS 227.550 to 227.660 or any administrative regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation, if it is correctable, within twenty (20) days. Should the manufacturer, ***certified installer***, or ***retailer***[~~dealer~~] fail to make the necessary corrections within the specified time or if the violation is not correctable, the ***board***[~~state fire marshal~~] may, after notice and hearing in accordance with KRS Chapter 13B, suspend or revoke any certificate of acceptability, ***certification***, or license if it finds that:

(a) The manufacturer, ***certified installer***, or ***retailer***[~~dealer~~] has failed to pay the fees authorized by KRS 227.550 to 227.660; or that

(b) The manufacturer, ***certified installer***, or ***retailer***[~~dealer~~], either knowingly or without the exercise of due care to prevent the same, has violated any provision of KRS 227.550 to 227.660 or any administrative regulation or order lawfully made pursuant to and within the authority of KRS 227.550 to 227.660; or that

(c) The manufacturer has shipped or imported into this state a manufactured home, mobile home, or recreational vehicle to any person other than to a duly licensed ***retailer***[~~dealer~~].

The office shall set out, through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, and shall provide for a dispute resolution process which may be used prior to a formal hearing under KRS Chapter 13B. The dispute resolution process shall be nonbinding on the licensee, certified installer, or manufacturer and shall be conducted after application for a KRS Chapter 13B hearing, but prior to the convening of the KRS Chapter 13B hearing.

(4) Any person aggrieved by any final order of the state fire marshal may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 12. KRS 227.650 is amended to read as follows:

(1) The office is empowered to inspect all mobile homes which are not covered by the federal act and recreational vehicles for which it has issued a seal of approval.

(2) The office may establish and require such training programs in the concept, techniques, and inspection of manufactured homes, mobile homes, and recreational vehicles for the personnel of local governments, as the office considers necessary.

(3) The staff of the office, upon showing proper credentials and in the discharge of their duties pursuant to KRS 227.550 to 227.660 or the federal act, is authorized with the consent of the manufacturer or by proper warrant to enter and inspect all factories, warehouses, or establishments in this state in which manufactured homes are manufactured ***or stored***.

SECTION 13. A NEW SECTION OF KRS 227.550 TO 227.650 IS CREATED TO READ AS FOLLOWS:

(1) No person shall transport into the Commonwealth of Kentucky any previously-owned manufactured or mobile home for the purpose of resale or use as a dwelling in the Commonwealth of Kentucky unless the previously-owned manufactured or mobile home has a B1 Seal attached to it prior to resale or use as a dwelling. The application and certification procedures for the attachment of the B1 Seal prior to the resale or occupancy of the manufactured or mobile home shall be set out by the office through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. Nothing in this section shall require a person who owns a manufactured or mobile home in another state and who transports that manufactured or mobile home into the Commonwealth of Kentucky to use as that person's dwelling to obtain a Class B seal.

(2) Except for manufactured or mobile homes installed within the Commonwealth of Kentucky before the effective date of this Act, no person shall sell, lease, rent, or furnish for use as a dwelling in the Commonwealth of Kentucky any previously-owned manufactured or mobile home that does not bear a B1 Seal and which is not installed in compliance with the manufacturer's instructions, if available, or ANSI 225.1, Manufactured Home Installations.

SB 142, AN ACT relating to the Airport Zoning Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.861 is amended to read as follows:

(1) There is hereby created and established within the cabinet, a commission to be known as the "Kentucky Airport Zoning Commission" which, notwithstanding the provisions of KRS Chapters 100 and 147, shall be empowered to issue orders, rules, and regulations pertaining to use of land within and around ***the facilities identified in subsection (2) of this section***[~~all military and public use airports, heliports, and sea plane bases within the state~~] as will promote the public interest and protect and encourage the proper use of the airports and their facilities.

(2) The commission shall have jurisdiction over land use issues around the following facilities:

(a) All military airports in the Commonwealth;

(b) All public use airports, heliports, and sea plane bases in the Commonwealth; and

(c) All state licensed, private use airports which have a paved runway in excess of two thousand nine hundred (2,900) feet.

The Committee on Labor and Industry reported **HB 677, SB 34**, with Committee Substitute attached thereto, and **SB 122** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 677, AN ACT relating to noncompetition clauses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 372 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "broadcasting industry" means television stations, television networks, radio stations or radio networks.

(2) A broadcasting industry employer shall not require, as a condition of employment, that an employee or prospective employee refrain from obtaining employment in a specified geographic area for a specified period of time after termination of employment with the broadcasting industry employer.

(3) Any person who violates this section shall be liable for damages, attorney's fees, and costs.

SB 34, AN ACT relating to home inspectors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 20 of this Act, unless otherwise provided:

(1) "Applicant" means an individual who applies for a license as a home inspector.

(2) "Board" means the Kentucky Board of Home Inspectors established in Section 3 of this Act.

(3) "Client" means an individual who hires or seeks to hire a licensed home inspector to obtain a home inspection and subsequent written home inspection report.

(4) "Department" means the Kentucky Department of Housing, Buildings, and Construction.

(5) "Home inspection" means a visual analysis for the purpose of providing a professional opinion by a licensed home inspector, of the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice established by the board. Home inspection shall not include a code compliance inspection, or an inspection required under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS 227.600 regarding manufactured homes.

(6) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after a home inspection. The report shall include the following:

  (a) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient;

  (b) The inspector's recommendation to repair or monitor deficiencies reported under paragraph (a) of this subsection;

  (c) A list of any systems or components that were designated for inspection in the standards of practice adopted by the board but that were not inspected; and

  (d) The reason a system or component listed under paragraph (c) of this subsection was not inspected.

(7) "Licensee" means a person who performs home inspections and who is licensed under Sections 1 to 20 of this Act as a home inspector.

(8) "Residential dwelling" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 20 of this Act shall apply to an individual who conducts home inspections for compensation, but shall not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

  (a) A code enforcement official for the state or a political subdivision of the state; or

  (b) A representative of a state or local housing agency or an individual acting under the authority of the United States Department of Housing and Urban Development;

(2) An individual who is acting within the scope of the individual's license as a licensed:

  (a) Architect under KRS Chapter 323;

  (b) Professional engineer under KRS Chapter 322;

  (c) Plumbing contractor or journeyman plumber under KRS Chapter 318;

  (d) Electrician, master electrician, or electrical contractor under KRS Chapter 227A;

  (e) Liquefied petroleum gas dealers under KRS Chapter 234; or

  (f) Master heating, ventilation, and air conditioning contractor, journeyman heating, ventilation, and air conditioning mechanic, or an apprentice heating, ventilation, and air conditioning mechanic under this chapter;

(3) An individual licensed under KRS Chapter 324 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license;

(4) An individual who is licensed under KRS Chapter 324A as a real estate appraiser and is acting within the scope of the

individual's license;

(5) An individual who holds a license under KRS Chapter 304 as an insurance adjuster and is acting within the scope of the individual's license;

(6) An individual who holds a permit, certificate, or license to:

(a) Use and apply pesticides; or

(b) Make diagnostic inspections and reports for wood destroying pests and fungi under KRS Chapter 217B and is acting within the scope of the individual's certificate or license;

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license;

(8) An individual who holds a current and valid license, certificate, or permit under KRS 227.550 to 227.660 and is acting within the scope of the individual's license, certificate, or permit as a:

(a) Manufactured home retailer;

(b) Manufactured home certified retailer; or

(c) Manufactured home certified installer; or

(9) Employees of the Department of Housing, Buildings and Construction or the State Fire Marshall's Office acting in their official capacities as inspectors of buildings and manufactured housing.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is created a board to be known as the Kentucky Board of Home Inspectors.

(2) The board shall be composed of ten (10) members appointed by the Governor.

(a) Five (5) of the members shall:

1. Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed one hundred (100) fee paid inspections per year over the last five (5) years;

2. Be licensed by the board as a home inspector; and

3. Be appointed as follows:

a. One (1) person shall be a member of the American Society of Home Inspectors;

b. One (1) person shall be a member of the Kentucky Real Estate Inspectors Association;

c. One (1) person shall be a member of the National Association of Home Inspectors; and

d. Two (2) persons shall be at-large home inspectors who are not members in any of the organizations set forth in a. to c. of this subparagraph.

These five (5) members shall be selected from a list of fifteen (15) names submitted to the Governor, and compiled by a selection committee composed of six (6) members, two (2) each from the American Society of Home Inspectors, the Kentucky Real Estate Inspectors Association, and the National Association of Home Inspectors respectively.

(b) The other five (5) board members shall be qualified as follows:

1. One (1) person shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;

2. One (1) person shall be a licensed real estate salesperson or broker under KRS Chapter 324 who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;

3. One (1) person shall represent the public at-large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names;

4. One (1) person shall be a licensed manufactured home retailer, certified retailer, certified installer, or certified inspector who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute; and

5. The Executive Director of the Office of Housing, Buildings, and Construction, or his or her designee shall be a member of the board.

(3) A board member required to have a license in accordance with subparagraph 3. of paragraph (a) of subsection (2) of this section, shall obtain the requisite license in accordance with Section 7 of this Act, on or before July 1, 2006. If a

board member does not obtain the requisite license on or before July 1, 2006, the board member shall be considered to have resigned from the board on July 1, 2006, and the Governor shall fill the vacancy in accordance with this section. If a board member resigns for failure to obtain a home inspectors license, the actions of the board member and board before July 1, 2006, shall be valid and viable.

(4) The members of the board shall be residents of Kentucky.

(5) The initial terms of office for the nine (9) members appointed to the board by the Governor are as follows:

(a) Three (3) members for a term of three (3) years;

(b) Three (3) members for a term of two (2) years; and

(c) Three (3) members for a term of one (1) year.

Thereafter, all members shall serve a term of three (3) years.

(6) The initial terms begin July 15, 2004.

(7) The Governor may remove a board member at any time for incompetence, neglect of duty, or unprofessional conduct.

(8) If a vacancy occurs in the membership of the board, the Governor shall appoint an individual to serve for the remainder of the unexpired term who has like qualifications required of the member who created the vacancy.

(9) A member shall not serve on the board for more than six (6) consecutive years.

(10) Each year the board shall elect a member as chairperson and a member as vice chairperson.

(11) The chairperson and vice chairperson shall serve in their respective capacities for no more than one (1) year consecutively and until a successor is elected.

(12) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.

(13) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

(14) The board shall meet at least quarterly each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

(15) The chairperson shall establish the date, time, and place for each meeting.

(16) A majority of the current members of the board constitutes a quorum.

(17) The affirmative vote of a majority of the members appointed to the board is necessary for the board to take official action.

(18) Each member of the board is entitled to a minimum salary of thirty-five dollars ($35) per diem. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as established under KRS 45.101.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Through the promulgation of administrative regulations:

(a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by Sections 1 to 20 of this Act; and

(b) Require that a home inspection report include a statement that the home inspection report does not address environmental hazards, which shall be listed with specificity by the board;

(2) Grant, deny, suspend, and revoke approval of examinations and courses of study regarding home inspections;

(3) Issue, deny, suspend, and revoke licenses in accordance with Sections 1 to 20 of this Act;

(4) Investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with Sections 1 to 20 of this Act or administrative regulations promulgated under Sections 1 to 20 of this Act, and, when appropriate, take action in accordance with Sections 15 and 16 of this Act;

(5) Bring actions in the name of the state in an appropriate court in order to enforce compliance with Sections 1 to 20 of this Act or the administrative regulations promulgated under Sections 1 to 20 of this Act;

(6) Establish fees in an amount not to exceed two hundred and fifty dollars ($250) annually;

(7) Inspect the records of a licensee in accordance with administrative regulations promulgated by the board;

(8) Conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under Sections 15 and 16 of this Act and exercise all powers granted under KRS Chapter 13B;

(9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and, through the board's secretary, certify copies and authenticate all acts of the board;

(10) Use counsel, consultants, and other persons, enter into contracts, and authorize expenditures that are reasonably necessary or appropriate to administer and enforce Sections 1 to 20 of this Act and administrative regulations promulgated thereunder;

(11) Establish continuing education requirements for licensed home inspectors in accordance with Sections 12 and 13 of this Act;

(12) Maintain the board's office, files, records, and property in the city of Frankfort;

(13) Require all fee-paid home inspections to be conducted in accordance with the standards of practice of:

(a) The American Society of Home Inspectors;

(b) The National Association of Home Inspectors; or

(c) Any other approved standards of practice that are equal to the standards of practice of the organizations in paragraphs (a) and (b) of this subsection.

The board may establish standards of practice for home inspectors licensed in Kentucky at a later date, which will supersede any other standards of practice previously adopted by the board.

(14) Exercise all other powers specifically conferred on the board under Sections 1 to 20 of this Act; and

(15) Promulgate administrative regulations to carry out the effective administration and the requirements of Sections 1 to 20 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department shall provide the board with:

(1) Clerical or other assistants, including investigators, necessary for the proper performance of the board's duties;

(2) A place to hold board meetings and hearings; and

(3) Office equipment and office space for board records, staff, and other effects necessary to carry out the requirements of Sections 1 to 20 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is established in the State Treasury a revolving fund for the use by the board.

(2) All fees and other money received by the board in accordance with Sections 4, 7, 8, 12, and 13 of this Act shall be deposited in the revolving fund established in subsection (1) of this section.

(3) No part of this revolving fund shall revert to the general fund.

(4) The compensation of board members and all of the board's expenses incurred by the board shall be paid from this revolving fund, except the assistance set forth in Section 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An individual shall not advertise or claim to be a licensed home inspector and shall not conduct a home inspection for compensation without first obtaining a license as a home inspector.

(2) The board shall deny a license to any applicant who fails to:

(a) Furnish evidence satisfactory to the board, showing that the individual:

1. Is at least eighteen (18) years of age;

2. Has graduated from high school or earned a Kentucky or other state's general educational development (GED) diploma; and

3. Meets other criteria established by the board.

(b) Verify the information submitted on the application form;

(c) Complete a board approved training program or course of study involving the performance of home inspections, and pass an examination prescribed or approved by the board;

(d) Submit to the board a certificate of insurance that is acceptable to the board and that:

1. Is issued by an insurance company or other legal entity authorized to transact insurance business in Kentucky;

2. Provides for general liability coverage of at least two-hundred and fifty thousand dollars ($250,000);

3. Lists the state as an additional insured;

4. States that cancellation and nonrenewal of the underlying policy is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and

5. Contains any other terms and conditions established by the board.

(e) Pay a licensing fee established in Section 4 of this Act.

(3) A person applying for a license as a home inspector shall apply on a written or electronic form prescribed and provided by the board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The licensing requirements for a home inspector may be waived for a person moving to Kentucky from another jurisdiction, and the person may be granted a license as a home inspector if the person meets the following requirements:

(a) The other jurisdiction grants the same privileges to licensees of Kentucky as Kentucky grants to licensees of that other jurisdiction;

(b) The person is licensed in the other jurisdiction;

(c) The licensing requirements of the other jurisdiction are substantially similar to the requirements of Sections 1 to 20 of this Act; and

(d) The person states that he or she has studied, is familiar with, and will abide by Sections 1 to 20 of this Act and the administrative regulations promulgated by the board.

(2) A person seeking a license as a home inspector under this section shall:

(a) Apply on a form prescribed and provided by the board; and

(b) Pay the applicable licensing fee established by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) A nonresident whom the board determines meets the requirements of Sections 1 to 20 of this Act and who files the written consent described in subsection (2) of this section may be licensed as a home inspector in Kentucky.

(2) A nonresident applicant shall file with the board a written consent stating that, if licensed:

(a) The applicant agrees to the commencement of any action arising out of the conduct of the applicant's business in Kentucky in the county in which the events giving rise to the cause of action occurred;

(b) The applicant:

1. Agrees to provide to the board the name and address of an agent to receive service of process in Kentucky; or

2. Consents to the board acting as the applicant's agent for the purpose of receiving service of process if:

a. An agent's name and address have not been filed with the board; or

b. The agent's name and address on file with the board are incorrect; and

(c) The applicant agrees that service of process in accordance with the Kentucky Rules of Civil Procedure is proper service and subjects the applicant to the jurisdiction of Kentucky courts.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

All licenses issued by the board shall remain the property of the board.

SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

A licensee shall notify the board within thirty (30) days of any change of:

(1) Name;

(2) Name under which the licensee conducts business; or

(3) Business address.

SECTION 12. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The initial license for a home inspector issued in accordance with Sections 1 to 20 of this Act, shall expire on the last day of the licensee's birth month in the following year. The board may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months.

(2) Renewed licenses shall expire on the last day of the licensee's birth month of each even numbered year after the date of issuance of the renewed license.

(3) An individual who applies to renew a license as a licensed home inspector shall:

(a) Furnish evidence showing successful completion of the continuing education requirements of this section;

(b) Pay the renewal fee established by the board; and

(c) Show proof of general liability insurance in the amount required by subsection (2)(d) of Section 7 of this Act.

(4) Renewal notices shall be sent to each licensee at least sixty (60) days prior to the expiration of the license. The notice shall inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the board, the licensee is not subject to a sanction for failure to renew if, once notice is received from the board, the license is renewed within forty-five (45) days of the receipt of the notice.

(5) Renewal fees shall be paid with a draft, a money order, a cashier's check, a certified or other personal check, or if payment is made in person, the payment may be made in cash. If the board receives an uncertified personal check for the renewal fee and if the check does not clear the bank, the board may refuse to renew the license.

(6) Before the end of each license period, each licensee shall complete the continuing education required by the board.

This requirement shall not exceed thirty (30) hours per two (2) year license cycle. This requirement shall be effective beginning January 1, 2005.

(7) The board may, through the promulgation of administrative regulations:

(a) Establish an inactive license for licensees who are not actively engaging in the home inspection business but wish to maintain their license;

(b) Reduce license and renewal fees for inactive licenses; and

(c) Waive the insurance requirements established in Section (7) of this Act for inactive licenses.

SECTION 13. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board shall promulgate administrative regulations concerning the continuing education required for the renewal of a home inspector license and shall:

(1) Establish procedures for approving organizations that provide continuing education; and

(2) Prescribe the content, duration, and organization of continuing education courses that contribute to the competence of home inspectors.

SECTION 14. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "political subdivision" means any city, county, or consolidated local government.

(2) No agency or political subdivision of the state, other than the board, shall impose the following on individuals licensed under Sections 1 to 20 of this Act:

(a) A registration or licensing requirement; or

(b) A license fee to obtain any local license, except that this prohibition shall not prevent any local government from imposing an occupational license tax on any person operating as a home inspector within the jurisdiction of the local government.

SECTION 15. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board shall take disciplinary actions against or impose sanctions on a licensee for failing to comply with any provision of Sections 1 to 20 of this Act or any administrative regulations promulgated to carry out Sections 1 to 20 of this Act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The procedures set forth in KRS Chapter 13B shall govern the board's conduct of disciplinary hearings.

(2) The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination, if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

(3) If the board:

(a) Determines that an individual is not licensed under Sections 1 to 20 of this Act and is engaged in or believed to be engaged in activities for which a license is required under Sections 1 to 20 of this Act, the board shall issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from the activities. The show cause order shall set forth a date, time, and place for a hearing at which the individual shall appear and show cause why the individual should not be subject to licensing under Sections 1 to 20 of this Act;

(b) After a hearing, determines that the activities in which the individual is engaged are subject to licensing under Sections 1 to 20 of this Act, the board may issue a cease and desist order that identifies the individual and describes activities that are the subject of the order.

(4) A cease and desist order issued under this section shall be enforceable in a Circuit Court of the Commonwealth.

SECTION 17. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An individual is guilty of a Class B misdemeanor under KRS 534.040 if the individual:

(a) Performs or offers to perform home inspections for compensation without being licensed as a home inspector and without being exempt from licensing;

(b) Presents as the individual's own the license of another;

(c) Intentionally gives false or materially misleading information to the board or to a board member in connection with a licensing matter;

(d) Impersonates another licensee; or

(e) Uses an expired, suspended, revoked, or an otherwise restricted license.

(2) When entering a judgment for a violation, the court shall add to any penalty imposed, the amount of any fee or other compensation earned by the individual in the commission of the violation.

(3) Each transaction involving unauthorized activities as described in this section, shall constitute a separate violation.

(4) In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking

relief shall allege and prove that, at the time that the cause of action arose, the party seeking relief was not in violation of Section 7 of this Act.

(5) The general counsel for the Department of Housing, Buildings and Construction shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this section.

SECTION 18. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An action for damages, whether brought in contract or tort, or on any other basis, based on professional services that were rendered or that should have been rendered by a licensed home inspector shall not be brought, commenced, or maintained unless the action is filed within one (1) year of the time that the claimant knew or should have known of a deficient inspection and damages and injuries resulting therefrom.

(2) Nothing in this section creates any duty to a third party that is not available under common law.

SECTION 19. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An individual who performs home inspections after the effective date of this Act, does not violate Sections 2 and 7 of this Act , and shall not be disciplined or sanctioned for failure to have a home inspector's license if the person obtains a home inspector's license not later than July 1, 2006.

(2) Notwithstanding the requirements of Section 7 of this Act, the board may issue to an individual, upon the individual's application and payment of fees, a home inspector license if the individual:

(a) Meets the requirements of Section 7 of this Act, excluding paragraph (2)(c) of Section 7 of this Act; or

(b) Has been engaged in the practice of home inspections for at least one (1) year prior to enactment of Sections 1 to 20 of this Act and documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's career.

(3) The board may consider and accept the successful completion of equivalent licensing requirements in another state or local jurisdiction instead of one (1) or more of the requirements of Section 7 of this Act, if those requirements meet or exceed the requirements of Section 7 of this Act.

(4) This section shall expire January 1, 2007.

SECTION 20. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Home inspectors are prohibited from indicating in writing in the initial home inspection report, that any condition is not in compliance with any building code enforced under KRS Chapter 198B.

SECTION 21. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

As used in Sections 21 to 27 of this Act, unless the context otherwise requires:

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a home inspector to assert a claim, whether by complaint, counterclaim, or cross-claim, for damages or the loss of use of real or personal property caused by a deficient home inspection or home inspection report regarding the inspection of a home. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a deficient home inspection or home inspection report;

(2) "Claimant" means a client who asserts a claim against a home inspector concerning a deficient home inspection or home inspection report regarding the inspection of a home;

(3) "Home" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied;

(4) "Home inspector " means a person licensed in accordance with Sections 1 to 27 of this Act; and

(5) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

SECTION 22. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 21 to 27 of this Act shall:

(1) Apply to any claim that arises before, on, or after July 15, 2004, as the result of a deficient home inspection or home inspection report regarding the inspection of a home, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 15, 2004;

(2) Prevail over any conflicting law otherwise applicable to the claim or cause of action;

(3) Not bar or limit any claim or defense otherwise available except as otherwise provided in Sections 21 to 27 of this Act; and

(4) Not create a new theory upon which liability may be based.

SECTION 23. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a claim to recover damages resulting from a deficient home inspection or home inspection report regarding the inspection of a home, a home inspector is liable for his or her acts or omissions or the acts or omissions of his or her agents or employees and is not liable for any damages caused by:

(1) The acts or omissions of a person other than the home inspector or his or her agent or employee; or

(2) Any construction defect disclosed to a claimant before his or her purchase of the home, if the disclosure was provided in writing and in language that is understandable and was signed by the claimant.

SECTION 24. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In every deficient home inspection or home inspection report action brought against a home inspector, the claimant shall serve written notice of claim on the home inspector. The notice of claim shall state that the claimant asserts a deficient home inspection or home inspection report claim against the home inspector and shall describe the claim in reasonable detail sufficient to determine the general nature of the deficiency.

(2) Within twenty-one (21) days after service of the notice of claim, the home inspector shall serve a written response on the claimant by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the home inspector shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection; or

(c) State that the home inspector disputes the claim.

(3) (a) If the home inspector disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, then the claimant may bring an action against the home inspector for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the home inspector pursuant to subsection (2) of this section, then the claimant shall serve written notice of the claimant's rejection on the home inspector. After service of the rejection, the claimant may bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim. If the home inspector has not received from the claimant, within thirty (30) days after the claimant's receipt of the home inspector's response, either an acceptance or a rejection of the inspection proposal or settlement offer, then at any time thereafter the home inspector may terminate the proposal or offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim.

(4) (a) If the claimant elects to allow the home inspector to inspect in accordance with the home inspector's proposal pursuant to subsection (2)(a) of this section, then the claimant shall provide the home inspector reasonable access to the claimant's home during normal working hours to inspect the premises.

(b) Within fourteen (14) days following completion of the inspection, the home inspector shall serve on the claimant:

1. A written offer to remedy the defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the remedy necessary to cure the defect described in the claim, and a timetable for the completion of this remedy;

2. A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

3. A written statement that the home inspector will not proceed further to remedy the defect.

The claimant shall have the right to accept or reject the proposed remedy, or the monetary offer to settle the claim.

(c) If the home inspector does not proceed further to remedy the defect within the agreed timetable, or if the home inspector fails to comply with the provisions of paragraph (b) of this subsection, then the claimant may bring an action against the home inspector for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the home inspector pursuant to paragraph (b)1. or 2. of this subsection to either remedy the defect or to compromise and settle the claim by monetary payment, then the claimant shall serve written notice of the claimant's rejection on the home inspector. After service of the rejection notice, the claimant may bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim. If the home inspector has not received from the claimant, within thirty (30) days after the claimant's receipt of the home inspector's response, either an acceptance or a rejection of the offer made pursuant to paragraph (b)1. or 2. of this subsection, then at any time thereafter the home inspector may terminate the offer by serving written notice to the claimant.

(5) (a) Any claimant accepting the offer of a home inspector to remedy the defect pursuant to subsection (4)(b)1. of this section shall do so by serving the home inspector with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty (30) days after receipt of the offer. The claimant shall provide the home inspector reasonable access to the claimant's home during normal working hours to perform and complete the remedy by the timetable stated in the offer.

(b) The claimant and home inspector may, by written mutual agreement, alter the extent of remedy or the

timetable, including but not limited to repair of additional defects.

(6) If a claimant files a complaint, counterclaim, or cross-claim prior to meeting the requirements of this section, then the court may issue an order holding the action in abeyance until the parties comply with this section.

(7) Nothing in this section may be construed to prevent a claimant from commencing an action on the deficient home inspection or home inspection report claim described in the notice of claim if the home inspector fails to perform the remedy agreed upon or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.

(8) The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose.

SECTION 25. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The home inspector shall upon entering into a contract for the inspection of a building or residence, provide notice to each client, of the home inspector's right to offer to cure a deficient home inspection or home inspection report before a client may commence litigation against the home inspector. The notice shall be conspicuous and may be included as part of the underlying contract signed by the client.

(2) The notice required by this section shall be in substantially the following form: "CHAPTER 411 OF THE KENTUCKY REVISED STATUTES CONTAIN IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE HOME INSPECTOR OF YOUR RESIDENCE. YOU MUST DELIVER TO YOUR HOME INSPECTOR A WRITTEN NOTICE OF ANY CONDITIONS YOU ALLEGE THAT YOUR HOME INSPECTOR FAILED TO INCLUDE IN THE HOME INSPECTION REPORT AND PROVIDE YOUR HOME INSPECTOR THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE HOME INSPECTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."

(3) Sections 21 to 27 of this Act shall not preclude or bar any action if notice is not given to the client as required by this section.

SECTION 26. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 21 to 27 of this Act shall be construed to hinder or otherwise affect the employment, agency, or contractual relationship between and among homeowners and home inspectors during the process of inspection, and nothing in Sections 21 to 27 of this Act precludes the termination of those relationships as allowed under other law.

(2) Noncompliance by the client with Section 24 of this Act shall not operate as an affirmative defense in an action against a home inspector by the client for emergency repairs.

SECTION 27. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If a written notice of claim is served under Section 24 of this Act, then the statute of limitation for the underlying action is tolled until seventy-five (75) days after the expiration of the time frame agreed to by the parties under subsection (2) of Section 24 of this Act, or the date established for inspection pursuant to paragraph (a) of subsection (2) of Section 24 of this Act, or the expiration of the time frame contained in paragraph (b) of subsection (4) of Section 24 of this Act, whichever occurs later.

Section 28. KRS 198B.030 is amended to read as follows:

(1) There is hereby created the Kentucky department of housing, buildings and construction within the cabinet for public protection and regulation. The governor shall appoint a commissioner to head the department by July 1, 1978. The commissioner shall receive for his services such compensation as the governor shall determine.

(2) The commissioner may employ sufficient staff to carry out the functions of his office. Neither the commissioner nor any member of his staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the department of housing, buildings and construction.

(3) The department shall serve as staff for the board of housing, buildings and construction as established by this chapter, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him by the governor or prescribed for him by law.

(4) The department may enter into contracts with the federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.

(5) Subject to the direction of the board of housing, buildings and construction, the commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.

(6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to

the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.

(7) The commissioner is authorized to receive, for and on behalf of the state, the department, and the board of housing, buildings and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this chapter, including expenses of administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

(8) The Kentucky Board of Home Inspectors established in Section 3 of this Act shall be attached to the department for administrative purposes.

The House Committee Substitute to **SB 34** is as follows:

SB 34, AN ACT relating to home inspectors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 20 of this Act, unless otherwise provided:

(1) "Applicant" means an individual who applies for a license as a home inspector.

(2) "Board" means the Kentucky Board of Home Inspectors established in Section 3 of this Act.

(3) "Client" means an individual who contracts with a licensed home inspector to obtain a home inspection and subsequent written home inspection report.

(4) "Department" means the Kentucky Department of Housing, Buildings, and Construction.

(5) "Home inspection" means a visual analysis for the purpose of providing a professional opinion by a licensed home inspector, of the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice established by the board. Home inspection shall not include a code compliance inspection, or an inspection required under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS 227.600 regarding manufactured homes.

(6) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after a home inspection. The report shall include the following:

(a) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient;

(b) The inspector's recommendation to repair or monitor deficiencies reported under paragraph (a) of this subsection;

(c) A list of any systems or components that were designated for inspection in the standards of practice adopted by the board but that were not inspected; and

(d) The reason a system or component listed under paragraph (c) of this subsection was not inspected.

(7) "Licensee" means a person who performs home inspections and who is licensed under Sections 1 to 20 of this Act as a home inspector.

(8) "Residential dwelling" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 20 of this Act shall apply to an individual who conducts home inspections for compensation, but shall not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

(a) A code enforcement official for the state or a political subdivision of the state; or

(b) A representative of a state or local housing agency or an individual acting under the authority of the United States Department of Housing and Urban Development;

(2) An individual who is acting within the scope of the individual's license as a licensed:

(a) Architect under KRS Chapter 323;

(b) Professional engineer under KRS Chapter 322;

(c) Plumbing contractor or journeyman plumber under KRS Chapter 318;

(d) Electrician, master electrician, or electrical contractor under KRS Chapter 227A;

(e) Liquefied petroleum gas dealers under KRS Chapter 234; or

(f) Master heating, ventilation, and air conditioning contractor, journeyman heating, ventilation, and air conditioning mechanic, or an apprentice heating, ventilation, and air conditioning mechanic under this chapter;

(3) An individual licensed under KRS Chapter 324 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license;

(4) An individual who is licensed under KRS Chapter 324A as a real estate appraiser and is acting within the scope of the individual's license;

(5) An individual who holds a license under KRS Chapter 304 as an insurance adjuster and is acting within the scope of the individual's license;

(6) An individual who holds a permit, certificate, or license to:

(a) Use and apply pesticides; or

(b) Make diagnostic inspections and reports for wood destroying pests and fungi under KRS Chapter 217B and is acting within the scope of the individual's certificate or license;

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license;

(8) An individual who holds a current and valid license, certificate, or permit under KRS 227.550 to 227.660 and is acting within the scope of the individual's license, certificate, or permit as a:

(a) Manufactured home retailer;

(b) Manufactured home certified retailer; or

(c) Manufactured home certified installer; or

(9) Employees of the Department of Housing, Buildings and Construction or the State Fire Marshall's Office acting in their official capacities as inspectors of buildings and manufactured housing.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is created a board to be known as the Kentucky Board of Home Inspectors.

(2) The board shall be composed of ten (10) members appointed by the Governor.

(a) Five (5) of the members shall:

1. Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed one hundred (100) fee paid inspections per year over the last five (5) years;

2. Be licensed by the board as a home inspector; and

3. Be appointed as follows:

a. One (1) person shall be a member of the American Society of Home Inspectors;

b. One (1) person shall be a member of the Kentucky Real Estate Inspectors Association;

c. One (1) person shall be a member of the National Association of Home Inspectors; and

d. Two (2) persons shall be either at-large licensed home inspectors or owners or managers of a home inspection company actively performing home inspections within the Commonwealth of Kentucky. The company and its owner or manager shall have been actively engaged in the home inspection profession in Kentucky for a minimum of five (5) years. The company shall employ or contract with multiple licensed home inspectors in good standing with the Kentucky Board of Home Inspectors.

These five (5) members shall be selected from a list of fifteen (15) names submitted to the Governor, and compiled by a selection committee composed of six (6) members, two (2) each from the American Society of Home Inspectors, the Kentucky Real Estate Inspectors Association, and the National Association of Home Inspectors respectively.

(b) The other five (5) board members shall be qualified as follows:

1. One (1) person shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;

2. One (1) person shall be a licensed real estate salesperson or broker under KRS Chapter 324 who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;

3. One (1) person shall represent the public at-large and shall not be associated with the home inspection, *home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names;*

4. One (1) person shall be a licensed manufactured home retailer, certified retailer, or certified installer who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute; and

5. The Executive Director of the Office of Housing, Buildings, and Construction, or his or her designee shall be a member of the board.

(3) A board member required to have a license in accordance with subparagraph 3. of paragraph (a) of subsection (2) of this section, shall obtain the requisite license in accordance with Section 7 of this Act, on or before July 1, 2006. If a board member does not obtain the requisite license on or before July 1, 2006, the board member shall be considered to have resigned from the board on July 1, 2006, and the Governor shall fill the vacancy in accordance with this section. If a board member resigns for failure to obtain a home inspectors license, the actions of the board member and board before July 1, 2006, shall be valid and viable.

(4) The members of the board shall be residents of Kentucky.

(5) The initial terms of office for the nine (9) members appointed to the board by the Governor are as follows:

(a) Three (3) members for a term of three (3) years;

(b) Three (3) members for a term of two (2) years; and

(c) Three (3) members for a term of one (1) year.

Thereafter, all members shall serve a term of three (3) years.

(6) The initial terms begin July 15, 2004.

(7) The Governor may remove a board member at any time for incompetence, neglect of duty, or unprofessional conduct.

(8) If a vacancy occurs in the membership of the board, the Governor shall appoint an individual to serve for the remainder of the unexpired term who has like qualifications required of the member who created the vacancy.

(9) A member shall not serve on the board for more than six (6) consecutive years.

(10) Each year the board shall elect a member as chairperson and a member as vice chairperson.

(11) The chairperson and vice chairperson shall serve in their respective capacities for no more than one (1) year consecutively and until a successor is elected.

(12) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.

(13) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

(14) The board shall meet at least quarterly each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

(15) The chairperson shall establish the date, time, and place for each meeting.

(16) A majority of the current members of the board constitutes a quorum.

(17) The affirmative vote of a majority of the members appointed to the board is necessary for the board to take official action.

(18) Each member of the board is entitled to a minimum salary of thirty-five dollars ($35) per diem. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as established under KRS 45.101.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Through the promulgation of administrative regulations:

(a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by Sections 1 to 20 of this Act; and

(b) Require that a home inspection report include a statement that the home inspection report does not address environmental hazards, which shall be listed with specificity by the board;

(2) Grant, deny, suspend, and revoke approval of examinations and courses of study regarding home inspections;

(3) Issue, deny, suspend, and revoke licenses in accordance with Sections 1 to 20 of this Act;

(4) Investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with Sections 1 to 20 of this Act or administrative regulations promulgated under Sections 1 to 20 of this Act, and, when appropriate, take action in accordance with Sections 15 and 16 of this

Act;

(5) Bring actions in the name of the state in an appropriate court in order to enforce compliance with Sections 1 to 20 of this Act or the administrative regulations promulgated under Sections 1 to 20 of this Act;

(6) Establish fees in an amount not to exceed two hundred and fifty dollars ($250) annually;

(7) Inspect the records of a licensee in accordance with administrative regulations promulgated by the board;

(8) Conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under Sections 15 and 16 of this Act and exercise all powers granted under KRS Chapter 13B;

(9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and, through the board's secretary, certify copies and authenticate all acts of the board;

(10) Use counsel, consultants, and other persons, enter into contracts, and authorize expenditures that are reasonably necessary or appropriate to administer and enforce Sections 1 to 20 of this Act and administrative regulations promulgated thereunder;

(11) Establish continuing education requirements for licensed home inspectors in accordance with Sections 12 and 13 of this Act;

(12) Maintain the board's office, files, records, and property in the city of Frankfort;

(13) Require all fee-paid home inspections to be conducted in accordance with the standards of practice of:

(a) The American Society of Home Inspectors;

(b) The National Association of Home Inspectors; or

(c) Any other approved standards of practice that are equal to the standards of practice of the organizations in paragraphs (a) and (b) of this subsection.

The board may establish standards of practice for home inspectors licensed in Kentucky at a later date, which will supersede any other standards of practice previously adopted by the board.

(14) Exercise all other powers specifically conferred on the board under Sections 1 to 20 of this Act; and

(15) Promulgate administrative regulations to carry out the effective administration and the requirements of Sections 1 to 20 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department shall provide the board with:

(1) Clerical or other assistants, including investigators, necessary for the proper performance of the board's duties;

(2) A place to hold board meetings and hearings; and

(3) Office equipment and office space for board records, staff, and other effects necessary to carry out the requirements of Sections 1 to 20 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is established in the State Treasury a revolving fund for the use by the board.

(2) All fees and other money received by the board in accordance with Sections 4, 7, 8, 12, and 13 of this Act shall be deposited in the revolving fund established in subsection (1) of this section.

(3) No part of this revolving fund shall revert to the general fund.

(4) The compensation of board members and all of the board's expenses incurred by the board shall be paid from this revolving fund, except the assistance set forth in Section 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An individual shall not advertise or claim to be a licensed home inspector and shall not conduct a home inspection for compensation without first obtaining a license as a home inspector.

(2) The board shall deny a license to any applicant who fails to:

(a) Furnish evidence satisfactory to the board, showing that the individual:

1. Is at least eighteen (18) years of age;

2. Has graduated from high school or earned a Kentucky or other state's general educational development (GED) diploma; and

3. Meets other criteria established by the board.

(b) Verify the information submitted on the application form;

(c) Complete a board approved training program or course of study involving the performance of home inspections, and pass an examination prescribed or approved by the board;

(d) Submit to the board a certificate of insurance that is acceptable to the board and that:

1. Is issued by an insurance company or other legal entity authorized to transact insurance business in

Kentucky;

2. Provides for general liability coverage of at least two-hundred and fifty thousand dollars ($250,000);

3. Lists the state as an additional insured;

4. States that cancellation and nonrenewal of the underlying policy is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and

5. Contains any other terms and conditions established by the board.

(e) Pay a licensing fee established in Section 4 of this Act.

(3) A person applying for a license as a home inspector shall apply on a written or electronic form prescribed and provided by the board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The licensing requirements for a home inspector may be waived for a person moving to Kentucky from another jurisdiction, and the person may be granted a license as a home inspector if the person meets the following requirements:

(a) The other jurisdiction grants the same privileges to licensees of Kentucky as Kentucky grants to licensees of that other jurisdiction;

(b) The person is licensed in the other jurisdiction;

(c) The licensing requirements of the other jurisdiction are substantially similar to the requirements of Sections 1 to 20 of this Act; and

(d) The person states that he or she has studied, is familiar with, and will abide by Sections 1 to 20 of this Act and the administrative regulations promulgated by the board.

(2) A person seeking a license as a home inspector under this section shall:

(a) Apply on a form prescribed and provided by the board; and

(b) Pay the applicable licensing fee established by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) A nonresident whom the board determines meets the requirements of Sections 1 to 20 of this Act and who files the written consent described in subsection (2) of this section may be licensed as a home inspector in Kentucky.

(2) A nonresident applicant shall file with the board a written consent stating that, if licensed:

(a) The applicant agrees to the commencement of any action arising out of the conduct of the applicant's business in Kentucky in the county in which the events giving rise to the cause of action occurred;

(b) The applicant:

1. Agrees to provide to the board the name and address of an agent to receive service of process in Kentucky; or

2. Consents to the board acting as the applicant's agent for the purpose of receiving service of process if:

a. An agent's name and address have not been filed with the board; or

b. The agent's name and address on file with the board are incorrect; and

(c) The applicant agrees that service of process in accordance with the Kentucky Rules of Civil Procedure is proper service and subjects the applicant to the jurisdiction of Kentucky courts.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

All licenses issued by the board shall remain the property of the board.

SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

A licensee shall notify the board within thirty (30) days of any change of:

(1) Name;

(2) Name under which the licensee conducts business; or

(3) Business address.

SECTION 12. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The initial license for a home inspector issued in accordance with Sections 1 to 20 of this Act, shall expire on the last day of the licensee's birth month in the following year. The board may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months.

(2) Renewed licenses shall expire on the last day of the licensee's birth month of each even numbered year after the date of issuance of the renewed license.

(3) An individual who applies to renew a license as a licensed home inspector shall:

(a) Furnish evidence showing successful completion of the continuing education requirements of this section;

(b) Pay the renewal fee established by the board; and

(c) Show proof of general liability insurance in the amount required by subsection (2)(d) of Section 7 of this Act.

(4) Renewal notices shall be sent to each licensee at least sixty (60) days prior to the expiration of the license. The notice shall inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the board, the licensee is not subject to a sanction for failure to renew if, once notice is received from the board, the license is renewed within forty-five (45) days of the receipt of the notice.

(5) Renewal fees shall be paid with a draft, a money order, a cashier's check, a certified or other personal check, or if payment is made in person, the payment may be made in cash. If the board receives an uncertified personal check for the renewal fee and if the check does not clear the bank, the board may refuse to renew the license.

(6) Before the end of each license period, each licensee shall complete the continuing education required by the board. This requirement shall not exceed thirty (30) hours per two (2) year license cycle. This requirement shall be effective beginning January 1, 2005.

(7) The board may, through the promulgation of administrative regulations:

(a) Establish an inactive license for licensees who are not actively engaging in the home inspection business but wish to maintain their license;

(b) Reduce license and renewal fees for inactive licenses; and

(c) Waive the insurance requirements established in Section (7) of this Act for inactive licenses.

SECTION 13. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board shall promulgate administrative regulations concerning the continuing education required for the renewal of a home inspector license and shall:

(1) Establish procedures for approving organizations that provide continuing education; and

(2) Prescribe the content, duration, and organization of continuing education courses that contribute to the competence of home inspectors.

SECTION 14. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "political subdivision" means any city, county, or consolidated local government.

(2) No agency or political subdivision of the state, other than the board, shall impose the following on individuals licensed under Sections 1 to 20 of this Act:

(a) A registration or licensing requirement; or

(b) A license fee to obtain any local license, except that this prohibition shall not prevent any local government from imposing an occupational license tax on any person operating as a home inspector within the jurisdiction of the local government.

SECTION 15. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The board shall take disciplinary actions against or impose sanctions on a licensee for failing to comply with any provision of Sections 1 to 20 of this Act or any administrative regulations promulgated to carry out Sections 1 to 20 of this Act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The procedures set forth in KRS Chapter 13B shall govern the board's conduct of disciplinary hearings.

(2) The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination, if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

(3) If the board:

(a) Determines that an individual is not licensed under Sections 1 to 20 of this Act and is engaged in or believed to be engaged in activities for which a license is required under Sections 1 to 20 of this Act, the board shall issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from the activities. The show cause order shall set forth a date, time, and place for a hearing at which the individual shall appear and show cause why the individual should not be subject to licensing under Sections 1 to 20 of this Act;

(b) After a hearing, determines that the activities in which the individual is engaged are subject to licensing under Sections 1 to 20 of this Act, the board may issue a cease and desist order that identifies the individual and describes activities that are the subject of the order.

(4) A cease and desist order issued under this section shall be enforceable in a Circuit Court of the Commonwealth.

SECTION 17. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An individual is guilty of a Class B misdemeanor under KRS 534.040 if the individual:

(a) Performs or offers to perform home inspections for compensation without being licensed as a home inspector

and without being exempt from licensing;

(b) Presents as the individual's own the license of another;

(c) Intentionally gives false or materially misleading information to the board or to a board member in connection with a licensing matter;

(d) Impersonates another licensee; or

(e) Uses an expired, suspended, revoked, or an otherwise restricted license.

(2) When entering a judgment for a violation, the court shall add to any penalty imposed, the amount of any fee or other compensation earned by the individual in the commission of the violation.

(3) Each transaction involving unauthorized activities as described in this section, shall constitute a separate violation.

(4) In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief shall allege and prove that, at the time that the cause of action arose, the party seeking relief was not in violation of Section 7 of this Act.

(5) The general counsel for the Department of Housing, Buildings and Construction shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this section.

SECTION 18. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An action for damages, whether brought in contract or tort, or on any other basis, based on professional services that were rendered or that should have been rendered by a licensed home inspector shall not be brought, commenced, or maintained unless the action is filed within one (1) year of the time that the claimant knew or should have known of a deficient inspection and damages and injuries resulting therefrom.

(2) Nothing in this section creates any duty to a third party that is not available under common law.

SECTION 19. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) An individual who performs home inspections after the effective date of this Act, does not violate Sections 2 and 7 of this Act , and shall not be disciplined or sanctioned for failure to have a home inspector's license if the person obtains a home inspector's license not later than July 1, 2006.

(2) Notwithstanding the requirements of Section 7 of this Act, the board may issue to an individual, upon the individual's application and payment of fees, a home inspector license if the individual:

(a) Meets the requirements of Section 7 of this Act, excluding paragraph (2)(c) of Section 7 of this Act; or

(b) Has been engaged in the practice of home inspections for at least one (1) year prior to enactment of Sections 1 to 20 of this Act and documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's career.

(3) The board may consider and accept the successful completion of equivalent licensing requirements in another state or local jurisdiction instead of one (1) or more of the requirements of Section 7 of this Act, if those requirements meet or exceed the requirements of Section 7 of this Act.

(4) This section shall expire January 1, 2007.

SECTION 20. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Home inspectors are prohibited from indicating in writing in the initial home inspection report, that any condition is not in compliance with any building code enforced under KRS Chapter 198B.

SECTION 21. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

As used in Sections 21 to 27 of this Act, unless the context otherwise requires:

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a home inspector to assert a claim, whether by complaint, counterclaim, or cross-claim, for damages or the loss of use of real or personal property caused by a deficient home inspection or home inspection report regarding the inspection of a home. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a deficient home inspection or home inspection report;

(2) "Claimant" means a client who asserts a claim against a home inspector concerning a deficient home inspection or home inspection report regarding the inspection of a home;

(3) "Home" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied;

(4) "Home inspector " means a person licensed in accordance with Sections 1 to 27 of this Act; and

(5) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

SECTION 22. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 21 to 27 of this Act shall:

(1) Apply to any claim that arises before, on, or after July 15, 2004, as the result of a deficient home inspection or home

inspection report regarding the inspection of a home, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 15, 2004;

(2) Prevail over any conflicting law otherwise applicable to the claim or cause of action;

(3) Not bar or limit any claim or defense otherwise available except as otherwise provided in Sections 21 to 27 of this Act; and

(4) Not create a new theory upon which liability may be based.

SECTION 23. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a claim to recover damages resulting from a deficient home inspection or home inspection report regarding the inspection of a home, a home inspector is liable for his or her acts or omissions or the acts or omissions of his or her agents or employees and is not liable for any damages caused by:

(1) The acts or omissions of a person other than the home inspector or his or her agent or employee; or

(2) Any construction defect disclosed to a claimant before his or her purchase of the home, if the disclosure was provided in writing and in language that is understandable and was signed by the claimant.

SECTION 24. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In every deficient home inspection or home inspection report action brought against a home inspector, the claimant shall serve written notice of claim on the home inspector. The notice of claim shall state that the claimant asserts a deficient home inspection or home inspection report claim against the home inspector and shall describe the claim in reasonable detail sufficient to determine the general nature of the deficiency.

(2) Within twenty-one (21) days after service of the notice of claim, the home inspector shall serve a written response on the claimant by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the home inspector shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection; or

(c) State that the home inspector disputes the claim.

(3) (a) If the home inspector disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, then the claimant may bring an action against the home inspector for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the home inspector pursuant to subsection (2) of this section, then the claimant shall serve written notice of the claimant's rejection on the home inspector. After service of the rejection, the claimant may bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim. If the home inspector has not received from the claimant, within thirty (30) days after the claimant's receipt of the home inspector's response, either an acceptance or a rejection of the inspection proposal or settlement offer, then at any time thereafter the home inspector may terminate the proposal or offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim.

(4) (a) If the claimant elects to allow the home inspector to inspect in accordance with the home inspector's proposal pursuant to subsection (2)(a) of this section, then the claimant shall provide the home inspector reasonable access to the claimant's home during normal working hours to inspect the premises.

(b) Within fourteen (14) days following completion of the inspection, the home inspector shall serve on the claimant:

1. A written offer to remedy the defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the remedy necessary to cure the defect described in the claim, and a timetable for the completion of this remedy;

2. A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

3. A written statement that the home inspector will not proceed further to remedy the defect.

The claimant shall have the right to accept or reject the proposed remedy, or the monetary offer to settle the claim.

(c) If the home inspector does not proceed further to remedy the defect within the agreed timetable, or if the home inspector fails to comply with the provisions of paragraph (b) of this subsection, then the claimant may bring an action against the home inspector for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the home inspector pursuant to paragraph (b)1. or 2. of this subsection to either remedy the defect or to compromise and settle the claim by monetary payment, then the claimant shall serve written notice of the claimant's rejection on the home inspector. After service of the rejection notice, the

claimant may bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim. If the home inspector has not received from the claimant, within thirty (30) days after the claimant's receipt of the home inspector's response, either an acceptance or a rejection of the offer made pursuant to paragraph (b)1. or 2. of this subsection, then at any time thereafter the home inspector may terminate the offer by serving written notice to the claimant.

(5) (a) Any claimant accepting the offer of a home inspector to remedy the defect pursuant to subsection (4)(b)1. of this section shall do so by serving the home inspector with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty (30) days after receipt of the offer. The claimant shall provide the home inspector reasonable access to the claimant's home during normal working hours to perform and complete the remedy by the timetable stated in the offer.

(b) The claimant and home inspector may, by written mutual agreement, alter the extent of remedy or the timetable, including but not limited to repair of additional defects.

(6) If a claimant files a complaint, counterclaim, or cross-claim prior to meeting the requirements of this section, then the court may issue an order holding the action in abeyance until the parties comply with this section.

(7) Nothing in this section may be construed to prevent a claimant from commencing an action on the deficient home inspection or home inspection report claim described in the notice of claim if the home inspector fails to perform the remedy agreed upon or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.

(8) The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose.

SECTION 25. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The home inspector shall upon entering into a contract for the inspection of a building or residence, provide notice to each client, of the home inspector's right to offer to cure a deficient home inspection or home inspection report before a client may commence litigation against the home inspector. The notice shall be conspicuous and may be included as part of the underlying contract signed by the client.

(2) The notice required by this section shall be in substantially the following form: "CHAPTER 411 OF THE KENTUCKY REVISED STATUTES CONTAIN IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE HOME INSPECTOR OF YOUR RESIDENCE. YOU MUST DELIVER TO YOUR HOME INSPECTOR A WRITTEN NOTICE OF ANY CONDITIONS YOU ALLEGE THAT YOUR HOME INSPECTOR FAILED TO INCLUDE IN THE HOME INSPECTION REPORT AND PROVIDE YOUR HOME INSPECTOR THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE HOME INSPECTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."

(3) Sections 21 to 27 of this Act shall not preclude or bar any action if notice is not given to the client as required by this section.

SECTION 26. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 21 to 27 of this Act shall be construed to hinder or otherwise affect the employment, agency, or contractual relationship between and among homeowners and home inspectors during the process of inspection, and nothing in Sections 21 to 27 of this Act precludes the termination of those relationships as allowed under other law.

(2) Noncompliance by the client with Section 24 of this Act shall not operate as an affirmative defense in an action against a home inspector by the client for emergency repairs.

SECTION 27. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If a written notice of claim is served under Section 24 of this Act, then the statute of limitation for the underlying action is tolled until seventy-five (75) days after the expiration of the time frame agreed to by the parties under subsection (2) of Section 24 of this Act, or the date established for inspection pursuant to paragraph (a) of subsection (2) of Section 24 of this Act, or the expiration of the time frame contained in paragraph (b) of subsection (4) of Section 24 of this Act, whichever occurs later.

Section 28. KRS 198B.030 is amended to read as follows:

(1) There is hereby created the Kentucky department of housing, buildings and construction within the cabinet for public protection and regulation. The governor shall appoint a commissioner to head the department by July 1, 1978. The commissioner shall receive for his services such compensation as the governor shall determine.

(2) The commissioner may employ sufficient staff to carry out the functions of his office. Neither the commissioner nor any member of his staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the department of housing, buildings and construction.

(3) The department shall serve as staff for the board of housing, buildings and construction as established by this chapter, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him by the governor or prescribed for him by law.

(4) The department may enter into contracts with the federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.

(5) Subject to the direction of the board of housing, buildings and construction, the commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.

(6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.

(7) The commissioner is authorized to receive, for and on behalf of the state, the department, and the board of housing, buildings and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this chapter, including expenses of administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

(8) The Kentucky Board of Home Inspectors established in Section 3 of this Act shall be attached to the department for administrative purposes.

SB 122, AN ACT relating to plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.030 is amended to read as follows:

(1) No person shall engage in plumbing or engage in or work at the trade of plumbing:

(a)[~~(1)~~] Unless he is the holder of a valid and effective *active* master plumber's license duly issued by the department in accordance with the provisions of this chapter; or

(b)[~~(2)~~] Unless he is the holder of a valid and effective journeyman plumber's license duly issued by the department in accordance with the provisions of this chapter.

(2) (a) No person, firm, or corporation shall engage in plumbing or engage in or work at the trade of plumbing unless the person, firm, or corporation maintains general liability insurance in an amount not less than two hundred fifty thousand dollars ($250,000) and submits proof of compliance with workers' compensation and unemployment insurance laws of the Commonwealth.

(b) Proof of insurance required in this subsection shall be submitted to the department prior to issuance or renewal of the active master plumber license required under this chapter.

(c) No license shall be valid without insurance as required in this subsection, and insurance carriers shall notify the department upon cancellation of the insurance of any licensee required to maintain insurance.

(d) The insurance required in this subsection shall not apply to an employee of a person, firm, or corporation engaged in plumbing as defined in this chapter.

The Committee on Appropriations and Revenue reported **HB 351**, with Committee Substitute and Committee Amendment attached thereto, and **HB 569** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 351, AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Kentucky General Assembly finds:

(1) Affordability is critical in providing access to prescription drugs for Kentucky residents;

(2) It is in the interest of this Commonwealth to take steps to make prescription drugs more affordable for qualified Kentucky residents, thereby increasing the overall health of Kentucky residents, promoting healthy communities, and protecting the public health and welfare, and to integrate the program as part of any statewide program for the uninsured; and

(3) It is not in the interest of this Commonwealth to discourage employers from offering or paying for prescription drug benefits for their employees, or to replace employer-sponsored prescription drug benefit plans that provide benefits comparable to those made available to qualified Kentucky residents under Sections 1 to 7 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 7 and Section 8 of this Act:

(1) "Average wholesale price" means the wholesale price charged on a specific commodity that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file;

(2) "Covered drugs" means drugs that are on the preferred drug list established and revised from time to time by the cabinet;

(3) "Initial discounted price" for a drug means the price the Department for Medicaid Services pays for that drug for Medicaid recipients;

(4) "Manufacture" shall have the same meaning as defined in KRS 218A.010;

(5) "Participating retail pharmacy" or "retail pharmacy" means a retail pharmacy located in this Commonwealth, or another business licensed to dispense prescription drugs in this Commonwealth, that participates in the program;

(6) "Qualified resident" means a resident of this Commonwealth:

(a) Who has a family income equal to or less than three hundred fifty percent (350%) of the federal poverty guidelines and who is enrolled in the program; or

(b) Whose family incurs unreimbursed expenses for prescription drugs that equal five percent (5%) or more of family income or whose total unreimbursed medical expenses equal fifteen percent (15%) or more of family income. For purposes of this paragraph, the cost of drugs provided under Sections 1 to 7 of this Act shall be considered an expense incurred by the family for eligibility determination purposes; and

(7) "Secondary discounted price" means the initial discounted price minus any further discounts paid for out of the fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Kentucky Rx Program is established to reduce prescription drug prices and to improve the quality of health care for residents of this Commonwealth. The program shall be administered by the Cabinet for Health Services and shall utilize manufacturer rebates and pharmacy discounts to reduce prescription drug prices.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall negotiate the amount of the rebate required from a manufacturer in accordance with the following:

(a) Consideration shall be given to the rebate calculated under the Medicaid Rebate Program in accordance with 42 U.S.C. sec. 1396r-8, the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts;

(b) The secretary's best efforts shall be used to obtain an initial rebate amount equal to or greater than the rebate calculated under the Medicaid program in accordance with to 42 U.S.C. sec. 1396r-8; and

(c) With respect to the rebate taking effect no later than October 1, 2005, the secretary's best efforts shall be used to obtain an amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government.

(2) Each participating retail pharmacy shall sell covered drugs to qualified residents at the lower of the initial discounted price or the secondary discounted price in accordance with prices determined by the cabinet.

(3) The cabinet shall establish discounted prices for drugs covered by a rebate agreement and shall promote the use of efficacious and reduced-cost drugs, taking into consideration reduced prices for state and federally capped drug programs, differential dispensing fees, administrative overhead, and incentive payments.

(4) Beginning September 1, 2004, a participating retail pharmacy shall offer the initial discounted price.

(5) No later than January 1, 2005, a participating retail pharmacy shall offer the secondary discounted price, if available.

(6) The cabinet shall not impose transaction charges under this program on retail pharmacies that submit claims or receive payments under the program.

(7) A participating retail pharmacy shall submit claims to the cabinet to verify the amount charged to qualified residents under subsection (4) of this section.

(8) On a weekly or biweekly basis, the cabinet shall reimburse a participating retail pharmacy for the difference between the initial discounted price under subsection (4) of this section and the secondary discounted price provided to qualified residents under subsection (5) of this section.

(9) The department shall conduct ongoing quality assurance related to the program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The names of manufacturers who do not enter into rebate agreements in accordance with Section 4 of this Act shall be public information. The cabinet shall release this information to health care providers and the public on a regular basis and shall publicize participation by manufacturers that is of particular benefit to the public.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Rx Program fund is established in the State Treasury to receive revenue from manufacturers who pay

rebates as provided in Section 4 of this Act and any appropriations or allocations designated for the fund. The purposes of the fund shall be to reimburse retail pharmacies for secondary discounted prices provided to qualified residents under Section 4 of this Act, and to reimburse the Cabinet for Health Services for costs associated with the administration of the program and other reasonable program costs.

(2) Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary. This fund shall be used be used solely for the purposes of the program. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year. Any interest on the fund balance shall accrue to the fund.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) By July 1, 2005, the cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A establishing the procedures for adoption and periodic review of maximum retail prices, the procedures for establishing maximum retail prices for new prescription drugs and for reviewing maximum retail prices of selected drugs, and the procedures for phasing out or terminating maximum retail prices.

(2) By January 1, 2006, the secretary shall determine whether the cost of prescription drugs provided to qualified residents under the Kentucky Rx Program created under Section 3 of this Act is reasonably comparable to the lowest cost paid for the same drugs delivered or dispensed in this Commonwealth. In making this determination, the following provisions shall apply:

(a) The secretary shall review prescription drug use in the Medicaid program using at least six (6) months of the most recent data available;

(b) Using the data reviewed in paragraph (a) of this subsection, the secretary shall determine the one hundred (100) drugs for which the most units were provided and the one hundred (100) drugs for which the total cost was the highest;

(c) For each prescription drug listed in paragraph (b) of this subsection, the secretary shall determine the cost for each drug for qualified residents who are provided those drugs under the Kentucky Rx Program on a certain date. The average cost for each drug shall be calculated;

(d) For each prescription drug listed under the provisions of paragraph (b) of this subsection, the secretary shall determine the lowest cost for each drug delivered or dispensed in this Commonwealth, taking into consideration the federal supply schedule and prices paid by pharmaceutical benefits managers and by large purchasers, excluding drugs purchased through the Kentucky Rx Program. The average cost for each drug shall be calculated. The data used to calculate the cost of each drug under this paragraph shall be the same data used under paragraph (c) of this subsection; and

(e) If the average cost for one (1) or more prescription drugs under the Kentucky Rx Program as determined in paragraph (c) of this subsection is not reasonably comparable to the average lowest cost for the same drug or drugs as determined in paragraph (d) of this subsection, the secretary shall establish maximum retail prices for any or all prescription drugs sold in this Commonwealth. Maximum prescription drug prices established under this subparagraph shall take effect July 1, 2006.

Section 8. KRS 315.191 is amended to read as follows:

(1) The board is authorized to:

(a) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters set forth in this chapter relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers, to the extent that regulation and control of same have not been delegated to some other agency of the Commonwealth, but administrative regulations relating to drugs shall be limited to the regulation and control of drugs sold pursuant to a prescription drug order. However, nothing contained in this chapter shall be construed as authorizing the board to promulgate any administrative regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services;

(b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board;

(c) Prescribe the time, place, method, manner, scope, and subjects of examinations, with at least two (2) examinations to be held annually;

(d) Issue and renew all licenses, certificates, and permits for all pharmacists, pharmacist interns, pharmacies, wholesale distributors, and manufacturers engaged in the manufacture, distribution, or dispensation of drugs;

(e) Investigate all complaints or violations of the state pharmacy laws and the administrative regulations promulgated by the board, and bring all these cases to the notice of the proper law enforcement authorities;

(f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are necessary and to control the storage, retrieval, dispensing, refilling, and transfer of prescription drug orders within and between pharmacists and pharmacies licensed or issued a permit by it;

(g) Perform all other functions necessary to carry out the provisions of law and the administrative regulations promulgated by the board relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers;

(h) Establish or approve programs for training, qualifications, and registration of pharmacist interns;

(i) Assess reasonable fees, in addition to the fees specifically provided for in this chapter and consistent with KRS 61.870 to 61.884, for services rendered to perform its duties and responsibilities, including, but not limited to, the following:

1. Issuance of duplicate certificates;
2. Mailing lists or reports of data maintained by the board;
3. Copies of documents; or
4. Notices of meetings;

(j) Seize any drug or device found by the board to constitute an imminent danger to public health and welfare;

(k) Establish an advisory council to advise the board on administrative regulations and other matters, within the discretion of the board, pertinent to the regulation of pharmacists, pharmacist interns, pharmacy technicians, pharmacies, drug distribution, and drug manufacturing. The council shall consist of nine (9) members selected by the board for four (4) year terms. No member shall serve on the council for more than two (2) full terms. Membership of the council shall include nine (9) individuals broadly representative of the profession of pharmacy and the general public. Members shall be selected by the board from a list of qualified candidates submitted by the association, society, or other interested parties; and

(l) Promulgate administrative regulations establishing the qualifications that pharmacy technicians are required to attain prior to engaging in pharmacy practice activities outside the immediate supervision of a pharmacist.

(2) The board shall have other authority as may be necessary to enforce pharmacy laws and administrative regulations of the board including, but not limited to:

(a) Joining or participating in professional organizations and associations organized exclusively to promote improvement of the standards of practice of pharmacy for the protection of public health and welfare or facilitate the activities of the board; and

(b) Receiving and expending funds, in addition to its biennial appropriation, received from parties other than the state, if:

1. The funds are awarded for the pursuit of a specific objective which the board is authorized to enforce through this chapter, or which the board is qualified to pursue by reason of its jurisdiction or professional expertise;
2. The funds are expended for the objective for which they were awarded;
3. The activities connected with or occasioned by the expenditure of the funds do not interfere with the performance of the board's responsibilities and do not conflict with the exercise of its statutory powers;
4. The funds are kept in a separate account and not commingled with funds received from the state; and
5. Periodic accountings of the funds are maintained at the board office for inspection or review.

(3) In addition to the sanctions provided in KRS 315.121, the board or its hearing officer may direct any licensee, permit holder, or certificate holder found guilty of a charge involving pharmacy or drug laws, rules, or administrative regulations of the state, any other state, or federal government, to pay to the board a sum not to exceed the reasonable costs of investigation and prosecution of the case, not to exceed twenty-five thousand dollars ($25,000).

(4) In an action for recovery of costs, proof of the board's order shall be conclusive proof of the validity of the order of payment and any terms for payment.

(5) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to require retail pharmacies participating in the Kentucky Rx Program created under Section 3 of this Act to disclose to a qualified resident the amount of savings provided as a result of the program at the time of sale of a covered drug. These administrative regulations shall protect information that is proprietary in nature.

The Committee Substitute to **HB 351** is as follows:

HB 351, AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Kentucky General Assembly finds:

(1) Affordability is critical in providing access to prescription drugs for Kentucky residents;

(2) It is in the interest of this Commonwealth to take steps to make prescription drugs more affordable for qualified Kentucky residents, thereby increasing the overall health of Kentucky residents, promoting healthy communities, and protecting the public health and welfare;

(3) It is not in the interest of this Commonwealth to discourage employers from offering or paying for prescription drug benefits for their employees, or to replace employer-sponsored prescription drug benefit plans; and

(4) It is in the interest of the Commonwealth to provide a refundable tax credit for prescription drugs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 5, and 6 of this Act:

(1) "Drug" shall have the same meaning as used in KRS 139.472(3)(b);

(2) "Prescription" shall have the same meaning as used in KRS 139.472 (3)(b);

(3) "Manufacture" shall have the same meaning as defined in KRS 218A.010; and

(4) "Qualified resident" means a Kentucky resident who has an adjusted gross family income of three hundred and fifty percent (350%) of the federal poverty guidelines or less and who does not have prescription drug coverage under a health benefit plan.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall negotiate rebates from manufacturers for qualified residents in accordance with the following:

(a) Consideration shall be given to the rebate calculated under the Medicaid Rebate Program in accordance with 42 U.S.C. sec. 1396r-8, the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts;

(b) For the initial rebate negotiated after the effective date of this Act, the secretary shall obtain an initial rebate amount equal to or greater than the rebate calculated under the Medicaid program in accordance with 42 U.S.C. sec. 1396r-8;

(c) Beginning on October 1, 2005, the secretary shall obtain a rebate amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government; and

(d) If the secretary is unable to negotiate rebates that meet the provisions of paragraphs (b) and (c) of this subsection, the secretary shall negotiate the highest rebate obtainable.

(2) The Cabinet for Health Service shall submit any required state plan amendment to the federal Centers for Medicare and Medicaid Services regarding the development of a preferred drug list for the Medicaid program based upon the provision of rebates from manufacturers under subsection (1) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The names of manufacturers who do not enter into rebate agreements in accordance with Section 3 of this Act shall be public information. The cabinet shall release this information to health care providers and the public on a regular basis and shall publicize participation by manufacturers that is of particular benefit to the public.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Rx refundable tax credit fund is established in the State Treasury to receive revenue from manufacturers who pay rebates as provided in Section 3 of this Act and any appropriations or allocations designated for the fund. The purposes of the fund shall be to provide a refundable tax credit to qualified residents and to fund the administrative costs associated with the negotiation of the rebates and the tax credit.

(2) Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. This fund shall be used solely for the purposes of providing refundable tax credits and associated administrative costs. The fund shall not lapse, and funds not expended during any taxable year shall carry forward to the next fiscal year. Any interest on the fund balance shall accrue to the fund.

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed as a refundable tax credit against the tax imposed under KRS 141.020, an amount as determined by the secretary of the Finance and Administration Cabinet.

(2) By August 1, 2005, and each August 1 thereafter, the secretary of the Finance and Administration Cabinet shall determine the amount of the refundable tax credit based on the amount of funds in the Kentucky Rx refundable tax credit fund, established in Section 5 of this Act, divided by the number of estimated qualified residents.

(3) A qualified resident who has out-of-pocket prescription drug costs in the taxable year shall be entitled to claim the refundable tax credit, not to exceed the amount of the out-of-pocket costs.

(4) After January 31, 2006, and each month thereafter, the cabinet shall notify the secretary of the Finance and Administration Cabinet of the amount of refundable tax credits claimed on tax returns processed by the cabinet. The secretary of the Finance and Administration Cabinet shall transfer from the Kentucky Rx refundable tax credit fund, established in Section 5 of this Act, to the general fund an amount equal to the tax credits claimed.

Section 7. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(h) The low income credit permitted by KRS 141.066;

(i) The household and dependent care credit permitted by KRS 141.067;

(j) The coal incentive credit permitted under KRS 141.0405; and

(k) The research facilities credit permitted under KRS 141.395.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;~~[and]~~

(b) The individual estimated tax payment credit permitted by KRS 141.305***; and***

(c) The prescription drug credit permitted by Section 6 of this Act.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(h) The coal incentive credit permitted under KRS 141.0405; and

(i) The research facilities credit permitted under KRS 141.395.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 8. The provisions of Section 6 of this Act shall apply for taxable years beginning after December 31, 2004.

The Committee Amendment No. 1 Title to **HB 351** is as follows:

HB 351, Amend the title to read as follows:

"AN ACT relating to a refundable tax credit for prescription drug costs.".

HB 569, AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, making an appropriation therefore, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1)There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

Frankfort/Franklin County Community Education
Thornhill Education Center
700 Leslie Avenue
Frankfort, Kentucky 40601 $2,636.00

Boyle County Schools

352 North Danville Bypass Danville, Kentucky 40422	$72,759.00
Floyd County Board of Education Office of the Superintendent 106 North Front Avenue Prestonsburg, Kentucky 41653	$57,618.35
BellSouth P.O. Box 70807 Charlotte, North Carolina 28272-0807	$68.13
BellSouth P.O. Box 70529 Charlotte, North Carolina 28272-0529	$335.74
Midland Communication Packaging, Inc. P.O. Box 99575 Louisville, Kentucky 40269-0575	$2,188.75
Myers and Stauffer 420 Nichols Road Kansas City, Missouri 54112	$135,000.00
Douglas Electronics Company, Inc. 650 Baxter Avenue Louisville, Kentucky 40204	$10,489.47
Weber and Rose, PSC Attention: Darryl W. Durham 400 West Market Street, Suite 2400 Louisville, Kentucky 40202-3364	$40,394.34
Mallinckrodt, Inc. c/o Lloyd and McDaniel, PLC P.O. Box 23200 Louisville, Kentucky 40223-0200	$10,000.08
Grants - Receivables University of Louisville Research Foundation 223 Service Complex Louisville, Kentucky 40292	$15,500.00
Covington and Burling P.O. Box 7566 Washington, District of Columbia 20044-7566	$93,666.93
Harrodsburg Independent Schools 371 East Lexington Street Harrodsburg, Kentucky 40330	$8,333.33
Chasteen Enterprises 300 Chestnut Street Berea, Kentucky 40403	$4,995.00
Roger Elliot P.O. Box 790 Liberty, Kentucky 42539	$4,561.20
Corman and Associates, Inc. 881 Floyd Drive Lexington, Kentucky 40505	$27,224.04

American Guidance Service, Inc. P.O. Box 86, SDS 12-1429 Minneapolis, Minnesota 55486-1429		$5,000.00
Hometown Chevron P.O. Box 384 Manchester, Kentucky 40962		$42.41
Charles W. Ritchie 811 McDonald's Ferry Road Frankfort, Kentucky 40601		$811.73
Herb Ray 791 Avenstoke Road Waddy, Kentucky 40076		$2,749.50
Social Security Administration 330 West Broadway, Room 205 Frankfort, Kentucky 40601		$210.09
BellSouth P.O. Box 70807 Charlotte, North Carolina 28272-0807		$515.35
USA Signs, LLC 196 Westridge Drive Danville, Kentucky 40422		$3,900.00
The Hogan Company 5018 East Robertson Road Cross Plains, Tennessee 37049		$6,062.80
Terminix 1001 Park Central Avenue Nicholasville, Kentucky 40356-9117		$365.00
Easy Picker Golf Products 415 Leonard Boulevard Lehigh, Florida 33971	$7,659.98	
Fabricut P.O. Box 470490 Tulsa, Oklahoma 74147-0490		$7,249.29
West Payment Center P.O. Box 6292 Carol Stream, Illinois 60197-6292		$2,746.21
Gateway Press, Inc. 1118 Solutions Center Chicago, Illinois 60677-1001		$3,578.00

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within five (5) years from the date of issuance of the checks as required by KRS 41.370 and 413.120.

	Payee	Treasury Fee	Total Check
Check #G1,120,694 dated January 8, 1986	$51.94	$25.00	$26.94
Check #G1,120,707 dated January 8, 1986	$25.97	$25.00	$0.97
Check #G1,120,715 dated January 8, 1986	$64.92	$25.00	$39.92
Check #G1,286,862 dated March 25, 1986	$39.50	$25.00	$14.50
Check #G1,286,912 dated March 25, 1986	$26.33	$25.00	$1.33
Check #G1,286,927 dated March 25, 1986	$78.99	$25.00	$53.99

Check #G1,424,044 dated June 2, 1986	$56.43	$25.00	$31.43
Maxine V. Johnson			
6809 Euclid Avenue			
Cincinnati, Ohio 45243 (total):	$344.08	$175.00	$169.08
Check #G2,539,757 dated August 14, 1987	$421.00	$25.00	$396.00
Check #G2,683,759 dated October 13, 1987	$1,046.00	$25.00	$1,021.00
Signal Boards, Inc.			
2400 Millers Lane			
Louisville, Kentucky 40216-5389 (total):	$1,467.00	$50.00	$1,417.00
Check #T9328969 dated July 1, 1992			
Daniel B. Sherwood			
1300 Golf Club Lane, Apartment 3			
Cincinnati, Ohio 45245	$85.36	$25.00	$60.36
Check #T1526860 dated June 13, 1994			
Cheryl L. Mikovich			
214 Landreth Court			
Durham, North Carolina 27713	$95.00	$25.00	$70.00
Check #T1548813 dated June 16, 1994			
Deborah Wesley			
c/o Ronald R. and Betty R. Wesley			
3345 Fir Tree Lane			
Erlanger, Kentucky 41018	$115.00	$25.00	$90.00
Check #T1633558 dated June 24, 1994			
Charles D. Wood			
50 Apple Lane			
Somerset, Kentucky 42501	$202.00	$25.00	$177.00
Check #E0970953 dated April 4, 1995			
Mary Virginia Taylor			
c/o Margaret Mason Engelhart			
499 Southwest 15th Drive			
Boca Raton, Florida 33432	$1,576.49	$25.00	$1,551.49
Check #L0977653 dated October 10, 1995			
Dereck Hess			
1738 Grapevine Road			
Phyllis, Kentucky 41554	$133.10	$25.00	$108.10
Check #T3670720 dated June 6, 1996			
Heath J. Aldrich			
290 Hillington Drive			
Paducah, Kentucky 42001-5994	$280.00	$25.00	$255.00
Check #CS2659627 dated October 8, 1996			
Rena Baker			
c/o Diane Darnell, CHFS			
730 Schenkel Lane			
Frankfort, Kentucky 40601	$120.00	$25.00	$95.00
Check #T4012305 dated February 27, 1997			
William D. and Roxanna St. John			
10850 Taylor Mill Road			
Independence, Kentucky 41051-7508	$275.00	$25.00	$250.00

Check #T4612993 dated May 12, 1997			
William E. Crowe			
152 Westland Lane			
Cynthiana, Kentucky 41031	$60.63	$25.00	$35.63
Check #E1,320,376 dated August 14, 1997			
Estate of Mary E. Humphrey			
c/o Whitlow and Scott, Attorneys at Law			
P.O. Box 389			
Elizabethtown, Kentucky 42702-0389	$184.00	$25.00	$159.00
Check #BT0063838 dated September 22, 1997			
Georgia R. Hill			
c/o Bob Hill			
1202 Half Mile Way			
Greenville, South Carolina 29609	$343.79	$25.00	$318.79
Check #BT0070235 dated September 22, 1997			
Estate of Sylva Zeidler			
c/o Strauss and Troy			
50 East Rivercenter Boulevard, Suite 1400			
Covington, Kentucky 41011	$981.42	$25.00	$956.42
Check #G13350913 dated October 6, 1997			
Ralph P. Lecompte			
c/o Wendi Beswick, KHEAA			
P.O. Box 798			
Frankfort, Kentucky 40602-0798	$289.32	$25.00	$264.32
Check #CS4,030,829 dated January 15, 1998	$41.00	$25.00	$16.00
Check #CS4,136,195 dated February 2, 1998	$65.00	$25.00	$40.00
Katrina L. Cord			
488 Beechwood Drive			
Maysville, Kentucky 41056 (total):	$106.00	$50.00	$56.00
Check #BT0117931 dated January 29, 1998			
Donald W. and Michele Norton			
6621 31st Place, Northwest			
Washington, District of Columbia 20015	$844.65	$25.00	$819.65
Check #E1,346,803 dated February 18, 1998			
Mary L. Gorman (Deceased)			
c/o Ann Hogan			
2196 16th Avenue			
San Francisco, California 94116	$480.00	$25.00	$455.00
Check #T5450917 dated April 13, 1998			
Christopher and Shawna Allison			
235 Ridgeland Drive			
Mayfield, Kentucky 42066	$177.00	$25.00	$152.00
CHeck #T5801120 dated May 27, 1998			
Peggy Byrd			
2470 West Main Street			
Williamsburg, Kentucky 40769	$103.00	$25.00	$78.00
Check #TR0829543 dated July 10, 1998			
Department of Highways			

c/o Sharon Cummings, Payroll Branch State Office Building, Mail Code 81 Frankfort, Kentucky 40622	$819.30	$25.00	$794.30

Section 2. Whereas the persons and companies named above have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Appropriations and Revenue reported **HB 483** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on State Government reported **HB 135**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on State Government reported **HB 611**, with Committee Substitute attached thereto, **HB 621, HB 626, HB 683, HJR 207, HCR 210**, with Committee Substitute attached thereto, **HCR 215**, and **SB 150** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 611, AN ACT relating to county clerks and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.012 is amended to read as follows:

(1) The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire thereof does not exceed three (3) pages	***$14.00***[~~$8.00~~]
Exceeding three (3) pages, for each page	2.00
Copy and certification of same when ordered	5.00
Each bond required to be taken or prepared by the clerk	3.00
Copy of any bond when ordered	2.00
Recording a bond, each bond	8.00
Receiving the acknowledgment or proof of any deed, mortgage, or agreement, power of attorney, or other written instrument required by law to be done and certifying same	2.00
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of deed	5.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three (3) pages	***14.00***[~~8.00~~]
Exceeding three (3) pages, for each page	2.00
Certified copy of real estate mortgage	5.00
Recording deed of assignment of real estate mortgage	***12.00***[~~8.00~~]
Noting release of any lien, mortgage, or redemption other than a deed of release	3.00
Receiving the acknowledgment, recording, and certifying each deed of release of a mortgage or lien under KRS 382.360	***12.00***[~~8.00~~]
Each additional marginal notation relating to same instrument	3.00
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	8.00

Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	***20.00***[~~8.00~~]
Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	2.00
Administering an oath and certificate thereof	2.00
Issuing license for which no other fee is fixed by law	5.00
Marriage license, bond, certificate and recording	24.00
For filing and indexing an original or continuation financing statement	8.00
For noting a security interest on a certificate of title under KRS Chapter 186A	12.00
For filing and indexing an assignment of a financing statement	8.00
For filing and noting a statement of release of collateral under a financing statement	5.00
Recording real estate options, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	***20.00***[~~15.00~~]
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Marginal notation to same instrument	3.00
Filing or recording of certification of intention to operate a business under an assumed name	8.00
Filing a lien on a delinquent motor vehicle or trailer bill	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill	2.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	8.00
Filing or recording of notice of lien issued by the Internal Revenue Service	8.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	8.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording United States liens, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00

Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	200.00
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	20.00
Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	20.00
Filing notification and declaration and petition of candidates for other offices	50.00
Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class	50.00
Recording wills or other probate documents under KRS 394.300***, provided the entire record thereof does not exceed three (3) pages***	***12.00***[~~8.00~~]
Exceeding three (3) pages, for each page	***2.00***
Registration of licenses for professional persons required to register with the county clerk	8.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages (except military discharges)	8.00
Exceeding three (3) pages, each additional page	2.00
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page	2.00
Filing petitions other than nominating petitions, provided the petition does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page, except that the total fee for filing a petition other than a nominating petition shall not exceed $50.00	2.00
Filing certification required by KRS 65.070(1)(a)	5.00
Certification of franchise tax assessment	5.00

(2) The county clerk shall permit an individual to duplicate public records using the individual's own portable photographic device or portable digital image scanner if the duplication will not damage or alter the original records. The county clerk shall not receive a fee for duplication of records under this section unless the individual requires electrical power. The county clerk may charge no more than fifty cents ($0.50) per hour for electrical power.

(3) The county clerk may receive up to fifty cents ($0.50) per page for any record that the clerk duplicates using equipment owned by or assigned to the clerk's office.

Section 2. KRS 382.110 is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) *The clerk or deputy clerk shall record on the deed, mortgage, or other instrument itself the date and time of any changes made to the deed, mortgage, or other instrument and shall record on the deed, mortgage, or other instrument itself the book number and the page number or place of recordation of the original document. All deeds, mortgages, and other instruments shall be lodged for record within twenty-four (24) hours of the time that the deed, mortgage, or other instrument is delivered to the clerk's office.*

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7)[~~(6)~~] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

(8)[~~(7)~~] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department for Local Government shall create an advisory committee to establish and implement a standardized indexing system or systems to be used by Kentucky county clerks. The committee shall consist of the following membership:

(a) Two (2) members appointed by the President of the Senate;

(b) Two (2) members appointed by the Speaker of the House of Representatives;

(c) Four (4) members of the Kentucky County Clerks Association appointed by the Commissioner of the Department for Local Government; and

(d) Two (2) representative members appointed by the Commissioner of the Department for Local Government from each of the following groups:

1. Governor's Office;

2. Kentucky Bar Association;

3. Kentucky Association of Realtors;

4. Kentucky Bankers Association;

5. Department for Libraries and Archives;

6. Department of Information Systems;

7. Department for Local Government; and

8. Administrative Office of the Courts.

(2) The members shall choose a chairman from among the membership of the committee.

(3) The committee shall meet monthly for a period of six (6) months immediately after the effective date of this Act to establish and implement a standardized indexing system or systems for the filing of legal documents. The system or systems shall be implemented by all county clerks by January 1, 2008. This system or systems shall recognize the requirements included in Section 4 of this Act. The committee may recommend more than one (1) system if it is found that the various recording needs of the clerks across the Commonwealth justify more than one (1) system. However, the systems shall be designed to be as uniform as possible and the committee shall recommend as few different systems as

are practicable. The committee shall make a written report detailing its recommendations made under this subsection to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on State Government, and the Interim Joint Committee on Local Government by October 1, 2005.

(4) In addition to its duties relative to the implementation of a standardized indexing system or systems, the committee shall also develop criteria for the dissemination of funds relative to the county clerks technology fund established under Section 5 of this Act. The criteria considered by the committee shall consist of determining appropriate computer software, hardware, and training requirements necessary for updating the clerks' records management systems. The committee shall make its recommendations under the provisions of this subsection by April 1, 2005. The committee shall make a written report detailing its recommendations made under this subsection to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on State Government, and the Interim Joint Committee on Local Government by October 1, 2005.

(5) After implementation of the indexing system or systems, the advisory committee may meet semiannually to review and make recommendations for any changes. After making the recommendations of the criteria for dissemination of the county clerks technology fund moneys, the advisory committee may meet semiannually to review and make recommendations for any changes to the fund criteria.

(6) The Department for Local Government shall provide adequate funding and staff to meet the needs of the advisory committee.

(7) The Department for Local Government shall take action to implement the recommendations of the committee by promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Dark" means equal to or darker than step 8 on a Stouffer Opaque Sensitivity Guide or "gray scale."

(b) "Handwriting" means writing done by hand with a pen or pencil.

(c) "Nonessential information" includes information that does not affect the validity of a document, such as instructions, page numbers, form number, or other notations.

(d) "Printed" describes an image produced by a mechanical device, such as a printing press, typewriter, or computer printer.

(2) County clerks shall follow a uniform record management process established in accordance with Section 3 of this Act that shall include all records, in addition to all property deeds and real estate transactions, under the following guidelines. Each instrument executed after the effective date of this Act and lodged for record in the office of a county clerk shall:

(a) Consist of one (1) or more individual sheets measuring no more than eight and one-half (8.5) inches by fourteen (14) inches in size;

(b) Not be permanently bound;

(c) Not be a continuous form;

(d) For each page except the first page and the final page, have a minimum one (1) inch top, side, and bottom margin;

(e) For the first page, have a minimum:

1. Two (2) inch top margin;

2. One (1) inch bottom margin;

3. One (1) inch side margins; and

(f) For the final page, have a minimum:

1. One (1) inch top margin;

2. Two (2) inch bottom margin; and

3. One (1) inch side margins.

(3) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall follow the guidelines set forth in subsection (2) of this section except:

(a) A map;

(b) A plat;

(c) A drawing;

(d) A will; or

(e) An instrument whose size is mandated by federal law or regulation.

(4) A map, plat, or drawing executed after the effective date of this Act and lodged in the office of a county clerk shall contain a three (3) inch by three (3) inch space at the bottom right corner.

(5) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall have a print clarity as follows:

(a) They shall be printed with dark ink, on white paper that does not have background color, images, or writing.

(b) A printed character shall be crisp, clean, complete, and legible.

(c) A record or document shall not have superfluous decorations such as wax, ribbons, and gold seals.

(6) All records or documents that are completed by handwriting, excluding holographic wills, executed after the effective date of this Act and lodged in the office of a county clerk, shall be written in dark ink. Blue ink is acceptable if it is dark when photographically or electronically reproduced.

(7) A record or document executed after the effective date of this Act and lodged in a county clerk's office shall be printed on a minimum of twenty (20) pound weight paper.

(8) A county clerk shall not be prohibited from filing a record or document that does not meet the requirements established by this section if the instrument has been created, certified, or accepted for filing or recording by the United States government or a government of a nation or state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the State Treasury the county clerks technology fund. The fund shall be administered by the Department for Local Government and the fund shall receive all moneys collected from the fee established in Section 6 of this Act. The moneys in the fund are hereby appropriated and shall be used solely for the purposes set out in this section. Moneys in this fund shall not lapse, but shall be carried forward into the following fiscal year.

(2) The Department for Local Government shall award grants to county clerks for making computer hardware and software improvements to their record management systems and for personnel training required for the use of the upgraded systems in accordance with acceptable criteria for equipment and training recommended by the advisory committee set out in Section 3 of this Act.

(3) In order to be eligible to receive a grant from the county clerks technology fund, county clerks shall submit to the Department for Local Government a grant application containing an itemized list of the specific equipment and cost of the equipment planned to be purchased by the clerk's office, and a description and cost of personnel training required for the use of the equipment, as well as any other information the Department for Local Government may deem necessary to execute the awarding of the county clerks technology fund grants.

(4) By accepting a grant from the county clerks technology fund, a county clerk shall agree to:

(a) Spend the grant money awarded only for the approved use, unless approval has been given by the Department for Local Government for a change in the grant proposal;

(b) Submit to the Department for Local Government periodic reports as to the progress of the use of the grant; and

(c) Any other provisions the department may deem necessary for the administering of the county clerks technology fund program.

(5) The Department for Local Government shall make an annual written report to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on State Government, and the Interim Joint Committee on Local Government by October 1 of each year containing:

(a) A list of each county clerk's office that received a grant from the county clerks technology fund during the award cycle;

(b) The amount given to each county clerk's office during the award cycle;

(c) A list of each county clerk's office that submitted a grant application that was not approved and the reasons for disapproval;

(d) The date each award was granted and whether or not the project has been completed and, if not, the projected date of completion;

(e) The date of any previous grant award given to a clerk's office from the county clerks technology fund; and

(f) A status of the fund as of the date of the report for the year.

(6) The Department for Local Government may revoke a grant and seek recovery of any grant funds disbursed if the county clerk's office does not comply with any requirement set out by the Department for Local Government relative to the award of grants from the county clerks technology fund or under the provisions set out by statute for the county clerks technology fund program.

(7) The Department for Local Government may begin awarding grants from this program on or after January 1, 2006.

(8) The Department for Local Government shall promulgate any administrative regulations under the provisions of KRS Chapter 13A it deems necessary to implement and administer the county clerks technology fund grant program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

On and after the effective date of this Act, each county clerk shall pay to the State Treasurer the sum of two dollars ($2) for each deed of trust or assignment for the benefit of creditors recorded and for each mortgage of real estate, certificates, and all

services connected with the same, recorded under the provisions of Section 1 of this Act to be placed into the county clerks technology fund established in Section 5 of this Act.

Section 7. This Act takes effect August 1, 2004.

The Committee Substitute to **HB 611** is as follows:

HB 611, AN ACT relating to county clerks and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.012 is amended to read as follows:

(1) The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire thereof does not exceed three (3) pages	***$10.00***[~~$8.00~~]
Exceeding three (3) pages, for each page	2.00
Copy and certification of same when ordered	5.00
Each bond required to be taken or prepared by the clerk	3.00
Copy of any bond when ordered	2.00
Recording a bond, each bond	8.00
Receiving the acknowledgment or proof of any deed, mortgage, or agreement, power of attorney, or other written instrument required by law to be done and certifying same	2.00
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of deed	5.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three (3) pages	***10.00***[~~8.00~~]
Exceeding three (3) pages, for each page	2.00
Certified copy of real estate mortgage	5.00
Recording deed of assignment of real estate mortgage	***12.00***[~~8.00~~]
Noting release of any lien, mortgage, or redemption other than a deed of release	3.00
Receiving the acknowledgment, recording, and certifying each deed of release of a mortgage or lien under KRS 382.360	***12.00***[~~8.00~~]
Each additional marginal notation relating to same instrument	3.00
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	8.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	***20.00***[~~8.00~~]
Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	2.00
Administering an oath and certificate thereof	2.00
Issuing license for which no other fee is fixed by law	5.00
Marriage license, bond, certificate and recording	24.00
For filing and indexing an original or continuation financing statement	8.00

For noting a security interest on a certificate of title under KRS Chapter 186A	12.00
For filing and indexing an assignment of a financing statement	8.00
For filing and noting a statement of release of collateral under a financing statement	5.00
Recording real estate options, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	***20.00***[~~15.00~~]
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Marginal notation to same instrument	3.00
Filing or recording of certification of intention to operate a business under an assumed name	8.00
Filing a lien on a delinquent motor vehicle or trailer bill	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill	2.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	8.00
Filing or recording of notice of lien issued by the Internal Revenue Service	8.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	8.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording United States liens, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	200.00
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	20.00
Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	20.00

Filing notification and declaration and petition of candidates for other offices	50.00
Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class	50.00
Recording wills or other probate documents under KRS 394.300***, provided the entire record thereof does not exceed three (3) pages***	***12.00***[~~8.00~~]
Exceeding three (3) pages, for each page	***2.00***
Registration of licenses for professional persons required to register with the county clerk	8.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages (except military discharges)	8.00
Exceeding three (3) pages, each additional page	2.00
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page	2.00
Filing petitions other than nominating petitions, provided the petition does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page, except that the total fee for filing a petition other than a nominating petition shall not exceed $50.00	2.00
Filing certification required by KRS 65.070(1)(a)	5.00
Certification of franchise tax assessment	5.00

(2) The county clerk shall permit an individual to duplicate public records using the individual's own portable photographic device or portable digital image scanner if the duplication will not damage or alter the original records. The county clerk shall not receive a fee for duplication of records under this section unless the individual requires electrical power. The county clerk may charge no more than fifty cents ($0.50) per hour for electrical power.

(3) The county clerk may receive up to fifty cents ($0.50) per page for any record that the clerk duplicates using equipment owned by or assigned to the clerk's office.

Section 2. KRS 382.110 is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) *The clerk or deputy clerk shall record on the deed, mortgage, or other instrument itself the date and time of any changes made to the deed, mortgage, or other instrument and shall record on the deed, mortgage, or other instrument itself the book number and the page number or place of recordation of the original document. All deeds, mortgages, and other instruments shall be lodged for record within twenty-four (24) hours of the time that the deed, mortgage, or other instrument is delivered to the clerk's office.*

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7)[~~(6)~~] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

(8)[~~(7)~~] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department for Local Government shall create an advisory committee to establish and implement a standardized indexing system or systems to be used by Kentucky county clerks. The committee shall consist of the following membership:

(a) Two (2) members appointed by the President of the Senate;

(b) Two (2) members appointed by the Speaker of the House of Representatives;

(c) Four (4) members of the Kentucky County Clerks Association appointed by the Commissioner of the Department for Local Government; and

(d) Two (2) representative members appointed by the Commissioner of the Department for Local Government from each of the following groups:

1. Governor's Office;

2. Kentucky Bar Association;

3. Kentucky Association of Realtors;

4. Kentucky Bankers Association;

5. Department for Libraries and Archives;

6. Department of Information Systems;

7. Department for Local Government; and

8. Administrative Office of the Courts.

(2) The members shall choose a chairman from among the membership of the committee.

(3) The committee shall meet monthly for a period of six (6) months immediately after the effective date of this Act to establish and implement a standardized indexing system or systems for the filing of legal documents. The system or systems shall be implemented by all county clerks by January 1, 2008. This system or systems shall recognize the requirements included in Section 4 of this Act. The committee may recommend more than one (1) system if it is found that the various recording needs of the clerks across the Commonwealth justify more than one (1) system. However, the systems shall be designed to be as uniform as possible and the committee shall recommend as few different systems as are practicable. The committee shall make a written report detailing its recommendations made under this subsection to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on State Government, and the Interim Joint Committee on Local Government by October 1, 2005.

(4) In addition to its duties relative to the implementation of a standardized indexing system or systems, the committee shall also develop criteria for the dissemination of funds relative to the county clerks technology fund established under Section 5 of this Act. The criteria considered by the committee shall consist of determining appropriate computer software, hardware, and training requirements necessary for updating the clerks' records management systems. The committee shall make its recommendations under the provisions of this subsection by April 1, 2005. The committee shall make a written report detailing its recommendations made under this subsection to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on State Government, and the Interim Joint Committee on Local Government by October 1, 2005.

(5) After implementation of the indexing system or systems, the advisory committee may meet semiannually to review and make recommendations for any changes. After making the recommendations of the criteria for dissemination of the county clerks technology fund moneys, the advisory committee may meet semiannually to review and make

recommendations for any changes to the fund criteria.

(6) The Department for Local Government shall provide adequate funding and staff to meet the needs of the advisory committee.

(7) The Department for Local Government shall take action to implement the recommendations of the committee by promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Dark" means equal to or darker than step 8 on a Stouffer Opaque Sensitivity Guide or "gray scale."

(b) "Handwriting" means writing done by hand with a pen or pencil.

(c) "Nonessential information" includes information that does not affect the validity of a document, such as instructions, page numbers, form number, or other notations.

(d) "Printed" describes an image produced by a mechanical device, such as a printing press, typewriter, or computer printer.

(2) County clerks shall follow a uniform record management process established in accordance with Section 3 of this Act that shall include all records, in addition to all property deeds and real estate transactions, under the following guidelines. Each instrument executed after the effective date of this Act and lodged for record in the office of a county clerk shall:

(a) Consist of one (1) or more individual sheets measuring no more than eight and one-half (8.5) inches by fourteen (14) inches in size;

(b) Not be permanently bound;

(c) Not be a continuous form;

(d) For each page except the first page and the final page, have a minimum one (1) inch top, side, and bottom margin;

(e) For the first page, have a minimum:

1. Two (2) inch top margin;

2. One (1) inch bottom margin;

3. One (1) inch side margins; and

(f) For the final page, have a minimum:

1. One (1) inch top margin;

2. Two (2) inch bottom margin; and

3. One (1) inch side margins.

(3) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall follow the guidelines set forth in subsection (2) of this section except:

(a) A map;

(b) A plat;

(c) A drawing;

(d) A will; or

(e) An instrument whose size is mandated by federal law or regulation.

(4) A map, plat, or drawing executed after the effective date of this Act and lodged in the office of a county clerk shall contain a three (3) inch by three (3) inch space at the bottom right corner.

(5) All records and documents executed after the effective date of this Act and lodged in the office of a county clerk shall have a print clarity as follows:

(a) They shall be printed with dark ink, on white paper that does not have background color, images, or writing.

(b) A printed character shall be crisp, clean, complete, and legible.

(c) A record or document shall not have superfluous decorations such as wax, ribbons, and gold seals.

(6) All records or documents that are completed by handwriting, excluding holographic wills, executed after the effective date of this Act and lodged in the office of a county clerk, shall be written in dark ink. Blue ink is acceptable if it is dark when photographically or electronically reproduced.

(7) A record or document executed after the effective date of this Act and lodged in a county clerk's office shall be printed on a minimum of twenty (20) pound weight paper.

(8) A county clerk shall not be prohibited from filing a record or document that does not meet the requirements established by this section if the instrument has been created, certified, or accepted for filing or recording by the United States government or a government of a nation or state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the State Treasury the county clerks technology fund. The fund shall be administered by the Department for Local Government and the fund shall receive all moneys collected from the fee established in Section 6 of this Act. The moneys in the fund are hereby appropriated and shall be used solely for the purposes set out in this section. Moneys in this fund shall not lapse, but shall be carried forward into the following fiscal year.

(2) The Department for Local Government shall award grants to county clerks for making computer hardware and software improvements to their record management systems and for personnel training required for the use of the upgraded systems in accordance with acceptable criteria for equipment and training recommended by the advisory committee set out in Section 3 of this Act.

(3) In order to be eligible to receive a grant from the county clerks technology fund, county clerks shall submit to the Department for Local Government a grant application containing an itemized list of the specific equipment and cost of the equipment planned to be purchased by the clerk's office, and a description and cost of personnel training required for the use of the equipment, as well as any other information the Department for Local Government may deem necessary to execute the awarding of the county clerks technology fund grants.

(4) By accepting a grant from the county clerks technology fund, a county clerk shall agree to:

(a) Spend the grant money awarded only for the approved use, unless approval has been given by the Department for Local Government for a change in the grant proposal;

(b) Submit to the Department for Local Government periodic reports as to the progress of the use of the grant; and

(c) Any other provisions the department may deem necessary for the administering of the county clerks technology fund program.

(5) The Department for Local Government shall make an annual written report to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on State Government, and the Interim Joint Committee on Local Government by October 1 of each year containing:

(a) A list of each county clerk's office that received a grant from the county clerks technology fund during the award cycle;

(b) The amount given to each county clerk's office during the award cycle;

(c) A list of each county clerk's office that submitted a grant application that was not approved and the reasons for disapproval;

(d) The date each award was granted and whether or not the project has been completed and, if not, the projected date of completion;

(e) The date of any previous grant award given to a clerk's office from the county clerks technology fund; and

(f) A status of the fund as of the date of the report for the year.

(6) The Department for Local Government may revoke a grant and seek recovery of any grant funds disbursed if the county clerk's office does not comply with any requirement set out by the Department for Local Government relative to the award of grants from the county clerks technology fund or under the provisions set out by statute for the county clerks technology fund program.

(7) The Department for Local Government may begin awarding grants from this program on or after January 1, 2006.

(8) The Department for Local Government shall promulgate any administrative regulations under the provisions of KRS Chapter 13A it deems necessary to implement and administer the county clerks technology fund grant program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

On and after the effective date of this Act, each county clerk shall pay to the State Treasurer the sum of two dollars ($2) for each deed of trust or assignment for the benefit of creditors recorded and for each mortgage of real estate, certificates, and all services connected with the same, recorded under the provisions of Section 1 of this Act to be placed into the county clerks technology fund established in Section 5 of this Act.

Section 7. This Act takes effect August 1, 2004.

HB 621, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency*, including the safety and security departments of a state college or university,* participating in the system in accordance with appropriate executive order, as provided in KRS

61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) regular legislative sessions;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 2. KRS 61.520 is amended to read as follows:

(1) Each department determined by the board to be eligible and qualified for participation shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be determined by the board and fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system[~~ after January 1, 1972~~], to include its noninstructional employees ***or its safety and security employees*** in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) Once a department participates it shall continue to participate as long as it remains qualified. Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

HB 626, AN ACT relating to administrative regulations, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;

(b) Declaratory rulings;

(c) Intradepartmental memoranda not in conflict with KRS 13A.130;

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" ***or "promulgated"*** means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11)[~~"Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;~~

~~(12)~~] "Proposed administrative regulation" means an administrative regulation that an administrative body proposes to promulgate;

(12)[~~(13)~~] "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(13)[~~(14)~~] "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(14)[~~(15)~~] "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee; and

(15)[~~(16)~~] "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 2. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) ***Change items in an administrative regulation in response to a specific written request submitted by the administrative body, if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. The changes may include the address of the administrative body, citations to statutes or other administrative regulations if the subdivision within that statute or administrative regulation has changed, or other changes in accordance with Section 18 of this Act;***

(11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, format, or filing requirements established by the provisions of KRS Chapter 13A, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing; and

(12)[~~(11)~~] Perform other duties required by the Commission or by a subcommittee.

Section 3. KRS 13A.150 is amended to read as follows:

(1) When any section of this chapter requires that an action be taken at a specified date with regard to filing of items to the Commission ***and the section does not specify a time deadline***, they shall be filed on or before 12 noon, eastern time, on the specified date.

(2) When any section of this chapter requires that an action be taken at a specified date and the specified date falls on a Saturday, Sunday, or holiday, the action shall be taken on or before 12 noon, eastern time, on the working day immediately preceding the Saturday, Sunday, or holiday ***unless the statute specifies a different deadline***.

(3) When any section of this chapter requires that a meeting be held on or before a specified date and the specified date falls on a Saturday, Sunday, or holiday, the action shall be taken on or before close of business on the working day immediately following the Saturday, Sunday, or holiday.

Section 4. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that:

(a) Must be placed into effect immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of federal or state funds;

3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or

4. Protect human health and the environment; and

(b) 1. Is temporary in nature and will expire as provided in this section; or

2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of ***filing***[~~publication~~] or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the time for filing a statement of consideration as provided by KRS 13A.280(2)(b), an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of ***filing***[~~publication~~] plus the number of days extended under the provisions of KRS 13A.280(2)(b).

(4) An emergency administrative regulation shall not be filed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) Each emergency administrative regulation shall contain a statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(e) If applicable, the explanation required by subsection (5) of this section.

(7) An administrative body shall attach the:

(a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

(b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(8) (a) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing and public comment period pursuant to KRS 13A.270(1). The public hearing and public comment period information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:

1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and

2. A public hearing and public comment period shall not be required for the emergency administrative regulation.

(9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.

Section 5. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file with the regulations compiler:

(a) The original and five (5) copies of an administrative regulation; and

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered*__, with each page starting with line number one (1)__*. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer)," whichever is applicable;

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261~~[, 13A.2264, 13A.2267]~~; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).

(6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 and the public comment period required by KRS 13A.270; and

(d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 6. KRS 13A.222 is amended to read as follows:

(1) In a new administrative regulation, there shall be no underlining or bracketing.

(2) In an amendment to an administrative regulation, the new words shall precede the deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all new words; and

(b) Place the deleted words in brackets and strike through these words.

(3) (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the

full text of the administrative regulation being amended.

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which ***the***[~~such~~] definitions appear;

(e) If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

2. To avoid repetition of a phrase; or

3. To limit or extend the provisions of an administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) ***Any reference in an administrative regulation to "medical doctor," "M.D.," or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless any of those terms is specifically excluded.***

(l) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
At the time	when
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final

Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

(m)[~~(l)~~] 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.

2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of *the*[~~such~~] written notice, the regulations compiler shall correct the citation.

b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."

3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.

4. a. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."

b. If appropriate, the citation of an appropriation act shall include a citation to the appropriate part of the budget memorandum.

5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)."

(n)[~~(m)~~] If the statutory authority is a federal law, the citation shall be the:

1. United States Code (U.S.C.), if it has been codified; or

2. Public Law (Pub. L.) and official session laws, if it has not been codified.

(o)[~~(n)~~] 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."

2. a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."

b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

3. a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."

b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

(p)[~~(o)~~] Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs[~~ (l),~~] (m),[~~ and~~] (n)***, and (o)*** of this subsection.

(q)[~~(p)~~] An administrative regulation may cite the popular name of a federal or state law if the popular name is accompanied by the citation required by this paragraph.

Section 7. KRS 13A.2245 is amended to read as follows:

(1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute:

(a) Requires an administrative body to implement, or a regulated entity to comply with, the provisions of that code or uniform standard; and

(b) Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.

(2) If a code or uniform standard is ***changed***[~~adopted with changes~~] by the administrative body, the administrative body shall***:***

(a) Clearly state the provisions in the body of the administrative regulation that are different than those included in the code or uniform standard; and

(b) File with the regulations compiler a:

1.[~~(a)~~] Copy of the code or uniform standard;

2.[~~(b)~~] Summary listing the pages upon which changes have been made; and

3.[~~(c)~~] Detailed summary of the changes and their effect.

The summaries shall be attached to the back of the proposed administrative regulation.

(3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate ***the***[~~such~~] material by reference in an administrative regulation as provided by KRS 13A.2251 and 13A.2255.

Section 8. KRS 13A.2251 is amended to read as follows:

(1) An administrative body shall incorporate material by reference in the last section of an administrative regulation. This section shall include:

(a) The title[~~ and edition~~] of the material incorporated by reference placed in quotation marks***, followed by the edition date of the material***;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.

(2) The section incorporating material by reference shall be titled "Incorporation by Reference".

(a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."

(b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."

(c) The second subsection of the section incorporating material by reference shall include the following statement: "This material may be inspected, copied, or obtained, subject to applicable copyright law, at (name of ***administrative body***[~~agency~~], full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."

(3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(4) (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

(b) Material incorporated by reference shall be placed in a binder. The administrative body shall ***indicate***[~~write, stamp, or type~~], on the front binder cover and on the first page of the material incorporated by reference, the***:***

1. Number of the administrative regulation to which ***the*** material incorporated by reference pertains***;***

2. [~~, the~~]Date on which it is filed***;***[~~,~~] and

3. [~~ the~~]Citation of each item that is included in the binder.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder. The numbers of the administrative regulations in which the material is incorporated by reference shall be ***indicated***[~~written, stamped, or typed~~] on the:

1. Front binder cover; and
2. First page of the material incorporated by reference.

Section 9. KRS 13A.2261 is amended to read as follows:

Federal statutes ***and regulations*** shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.

Section 10. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:

(a) Regulatory impact analysis as required by KRS 13A.240;

(b) Tiering statement as required by KRS 13A.210;

(c) Fiscal note as required by KRS 13A.250, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and

(e) The summaries provided for in KRS ***13A.2245***[~~13A.2261, 13A.2264, and 13A.2267~~], if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 11. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) A brief narrative summary of:

1. What the administrative regulation does;
2. The necessity of the administrative regulation;
3. How the administrative regulation conforms to the content of the authorizing statutes; and
4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;

(b) If this is an amendment to an existing administrative regulation, a brief narrative summary of:

1. How the amendment will change the existing administrative regulation;
2. The necessity of the amendment to the administrative regulation;
3. How the amendment conforms to the content of the authorizing statutes; and
4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;

(c) The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;

(d) An assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation;

(e) An estimate of how much it will cost to implement this administrative regulation, both initially and on a continuing basis;

(f) The source of the funding to be used for the implementation and enforcement of the administrative regulation;

(g) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;[~~ and~~]

(h) A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees***; and***

(i) The tiering statement required by KRS 13A.210.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 12. KRS 13A.255 is amended to read as follows:

(1) Within five (5) working days of the filing of an ordinary administrative regulation that proposes to establish or increase fees, except those fees exempted by KRS 13A.100(3), an administrative body shall mail a notice containing the

information required by subsection (2) of this section, to each state association, organization, or other body representing a person or entity affected by the administrative regulation.

(2) The notice shall include the following information:

(a) The name of the administrative body that filed the proposed administrative regulation;

(b) A statement that the administrative body has promulgated an administrative regulation that establishes or increases fees;

(c) A summary of the administrative regulation that includes:

1. The amount of each fee being established;

2. The amount of any increases to any fees previously established; and

3. The necessity for the establishment or increase in the fees;

(d) A statement that a person or entity may contact the administrative body for additional information;

(e) The time, date, and place of the scheduled public hearing;[~~ and~~]

(f) ***The deadline for submitting written comments as established in subsection (1)(c) of Section 13 of this Act; and***

(g) The name, address, and telephone number of the contact person for the administrative body.

Section 13. KRS 13A.270 is amended to read as follows:

(1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (5) of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.

(c) The administrative body shall accept written comments regarding the administrative regulation ***until the end of the calendar month in which the administrative regulation was published***[~~for a period of thirty (30) days following the publication of the administrative regulation~~] in the Administrative Register. If the ***last***[~~thirtieth~~] day of the ***calendar month***[~~comment period~~] falls on a Saturday, Sunday, or holiday, the ***administrative body shall consider all comments received prior to the close of business of the first***[~~last day of the comment period shall be the~~] workday following the Saturday, Sunday, or holiday.

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;

(d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and

(e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first. ***The form shall include an optional space for the person to voluntarily provide an e-mail address in order to receive the information electronically. The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties.***

(b) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be ***e-mailed if an e-mail address is available, or, if an e-mail address is not available,*** mailed:

1. To every person who has filed this form with the administrative body;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

(4) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(5) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and

(b) No written comments have been received by the close of the last day of the public comment period.

(6) (a) ***1.*** Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

2. If the public hearing is held but no comments are received during the hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing was held and that no comments were received.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.

(7) ***If the notifications required by subsections (5) and (6) of this section are not received by the regulations compiler by close of business on the second workday of the calendar month, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.***

(8) The notifications required by subsections (5) and (6) of this section shall be made by telephone and by letter. The letter may be sent by e-mail if the administrative body uses an electronic signature and letterhead for the e-mailed document.

(9) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (4) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(10)[~~(8)~~] Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 14. KRS 13A.280 is amended to read as follows:

(1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and during the comment period.

(2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day ***of the calendar month*** following the ***month of publication***[~~last day of the comment period~~] the statement of consideration relating to the administrative regulation.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration[~~ for up to thirty (30) days~~] by notifying the ***regulations compiler***[~~Commission~~] in writing on or before 12 noon, eastern time, ***on***[~~of~~] the fifteenth day ***of the calendar month*** following the ***month of publication***[~~last day of the comment period~~]. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the ***fifteenth day of the second calendar month***[~~forty-fifth day~~] following the ***month of publication***[~~last day of the comment period~~].

(3) (a) If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section.

(b) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.

(b) If ***comments are received either at the public hearing or during the public comment period***[~~the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee~~], the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee ***following the month in which the statement of consideration is due***.

(5) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The first page of the statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;

(d) If a hearing has been held or written comments received, the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing***, if the hearing was held***;

2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f) Following the summary and comments, the promulgating administrative body shall:

1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and

2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d); ***and***

(g)[~~ If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and~~

~~(h)~~] If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 15. KRS 13A.290 is amended to read as follows:

(1) Except as provided by KRS 158.6471 and 158.6472, ***the Administrative Regulation Review Subcommittee shall meet monthly to review administrative regulations prior to close of business on the fifteenth day of the calendar month. The agenda shall:***

(a) Include each administrative regulation that was published in the prior month's Administrative Register;

(b) Include each administrative regulation for which a statement of consideration was received on or before 12 noon, eastern time, on the fifteenth day of the prior calendar month; and

(c) Not include an administrative regulation that is deferred, withdrawn, or automatically taken off the agenda under the provisions of this chapter[~~within forty five (45) days after publication of an administrative regulation in "The Administrative Register," or within sixty (60) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation~~].

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation

Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating ***administrative body***[~~agency~~]. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the administrative regulation to:

1. A subcommittee of appropriate jurisdiction over the subject matter of the administrative regulation; or

2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter of the administrative regulation.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the administrative regulation is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the administrative regulation; or

2. That it will not meet to consider the administrative regulation.

(7) Within thirty (30) days of the assignment, the subcommittee may hold a public meeting during which the ***administrative*** regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.

(9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:

(a) Meeting separately; or

(b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.

(10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating ***administrative body***[~~agency~~]. The subcommittee's findings shall be published in the Administrative Register.

Section 16. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated an administrative regulation may request[~~ at a meeting of a subcommittee~~] that consideration of the administrative regulation be deferred by the subcommittee.

(a) A request for deferral shall be automatically granted if:

1. The administrative body submits a written letter to the regulations compiler; and

2. The letter is received prior to the subcommittee meeting.

(b) A request for deferral may be granted at the discretion of the subcommittee if the request is made by the administrative body orally at a meeting of the subcommittee[~~Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation~~].

(2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.

(3) An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in ***those***[~~such~~] cases.

Section 17. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:

1. Is titled "Repeal of (state number of administrative regulation to be repealed)";

2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND CONFORMITY" paragraph;

3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and

4. Meets the filing and formatting requirements of KRS 13A.220.

(b) On the effective date of an administrative regulation that repeals an administrative regulation, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.

(4) ***(a)*** An ordinary administrative regulation may be withdrawn by the promulgating ***administrative body***[~~agency~~] at any time prior to its adoption.

(b) An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating ***administrative body***[~~agency~~] at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330 or 13A.331 ***or may be withdrawn by the Governor***.

(c) If an ordinary administrative regulation is withdrawn, the administrative body ***or the Governor*** shall inform the regulations compiler of the reasons for withdrawal in writing.

(5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

Section 18. KRS 13A.312 is amended to read as follows:

(1) If authority over a subject matter is transferred to another administrative body ***or if the name of an administrative body is changed*** by statute or by executive order during the interim between regular sessions of the General Assembly, the ***administrative regulations of that*** administrative body ***in effect on the effective date of the statutory change or the executive order shall remain in effect as they exist until the administrative body that has been granted authority over the subject matter amends or repeals the administrative regulations pursuant to KRS Chapter 13A.***

(2) Pursuant to the statutory change or executive order, the regulations compiler shall alter the administrative regulations referenced in subsection (1) of this section to:

(a) Change the name of the administrative body pursuant to the provisions of the statute or executive order; and

(b) Make any other technical changes necessary to carry out the provisions of the statute or executive order.

(3) The administrative body that has been granted statutory authority over the subject matter shall provide to the regulations compiler in writing:

(a) A listing of the administrative regulations that require any changes; and

(b) The specific names, terms, or other information to be changed with those changes properly referenced.

(4) The administrative body that has been granted statutory authority over the subject matter shall submit new forms to replace forms previously incorporated by reference in an administrative regulation if the only changes on the form are the name and mailing address of the administrative body. If there are additional changes to a form incorporated by reference, the administrative body shall promulgate an amendment to the existing administrative regulation and make the changes to the material incorporated by reference in accordance with KRS 13A.2255.

(5) If an administrative body is abolished by statute or executive order, and the authority over its subject matter is not transferred to another administrative body, the Governor, or the secretary of the cabinet to which the administrative body was attached, shall promulgate an administrative regulation to repeal the existing administrative regulations that were promulgated by the abolished administrative body. The repeal shall be accomplished as provided by Section 17 of this Act[~~:~~

~~(a) From which authority has been transferred shall repeal the existing administrative regulations governing the subject matter;~~

~~(b) That has been granted authority over the subject matter shall promulgate administrative regulations governing the subject matter;~~

~~(2) Agencies promulgating administrative regulations to comply with paragraphs (a) and (b) of subsection (1) of this section shall file the repeal and the new administrative regulation at the same time.~~

~~(3) Administrative regulations repealed under the provisions of this subsection shall be repealed as provided by KRS 13A.310(3)~~].

Section 19. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall ***expire***[~~be withdrawn~~] and shall not be reviewed by a legislative subcommittee if:

(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

(b) An item is not filed on or before a deadline specified by this chapter; or

(c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, ***the*** public ***hearing and public comment period***[~~hearings~~], ***or***[~~and~~] the statement of consideration.

(2) An administrative regulation which has not complied with all the provisions of this chapter and any ***administrative*** regulations promulgated under this chapter shall be considered procedurally defective and void.

(3) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately[~~ by the promulgating administrative body~~] if, pursuant to KRS 13A.330 or 13A.331, the Governor has determined that it shall be withdrawn.

(b) The ***Governor***[~~promulgating administrative body~~] shall notify the regulations compiler in writing and by telephone that ***he has determined that the***[~~it is withdrawing an~~] administrative regulation ***found deficient shall be withdrawn***[~~governed by the provisions of this subsection~~].

(c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to KRS 13A.330(2)(b) or 13A.331(2)(b), ***I have***[~~the Governor has~~] determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The ***administrative regulation,***[~~(name of promulgating administrative body) withdraws~~] (administrative regulation number and title)***, is hereby withdrawn***."

(d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

Section 20. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:

1. Considered at the public hearing; or
2. Raised pursuant to a comment received by the administrative body at the public hearing or during the public comment period pursuant to KRS 13A.280(1); or
3. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:

1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and ***(l)***[~~(k)~~]; and
2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.

(e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

(a) Amendments offered by the administrative body[~~ to resolve issues raised by a subcommittee~~] prior to ***a subcommittee***[~~its~~] meeting shall be approved by the head of the administrative body.

(b) Amendments[~~ initiated by the administrative body~~] shall be contained in a letter to the subcommittee. The letter shall:

1. Identify the administrative body;
2. State the number and title of the administrative regulation;
3. Be dated;
4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee***, if the amendments are initiated by the administrative body***; and
5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.

(c) On separate lines, the amendment shall be identified by the number of the:

1. Page;

2. Section, subsection, paragraph, subparagraph, clause, or subclause, as appropriate; and

3. Line.

(d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.

2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.

3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.

(3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the Administrative Regulation Review Subcommittee meeting at which the amendment will be considered.

Section 21. KRS 13A.330 is amended to read as follows:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)1.

(1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:

1. The administrative regulation is on the agenda of the subcommittee meeting;

2. A quorum of the subcommittee is present; and

3. The subcommittee:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;

2. Be withdrawn and amended to conform to the finding of deficiency; or

3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5) An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:

(a) 1. The ***requirements of subsection (1) of this section have been met***~~[subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:~~

~~a. Considered the administrative regulation;~~

~~b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or~~

~~c. Failed to meet within thirty (30) days of such assignment~~]; and

2. The regulations compiler has received the Governor's determination; that the administrative regulation shall

become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or

(b) The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 22. KRS 13A.331 is amended to read as follows:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)2.

(1) An administrative regulation that has not been found deficient by both standing committees shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day the second standing committee meets to consider the administrative regulation pursuant to KRS 13A.290 if:

1. The administrative regulation is on the agenda of the standing committee meeting;

2. A quorum of the standing committee is present;

3. The standing committee:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; and

4. Pursuant to KRS 13A.290(9), the decision of the standing committee to amend the administrative regulation is the same as the decision of the corresponding standing committee of the other chamber to amend the administrative regulation;

(b) Upon adjournment on the day the standing committee meeting jointly meets to consider the administrative regulation pursuant to KRS 13A.290 if:

1. The administrative regulation is on the agenda of the joint standing committee meeting;

2. A quorum of the joint standing committee is present;

3. The joint standing committee meeting:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(c) If a standing committee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290, or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by both standing committees, or by the standing committees meeting jointly, the standing committees, or the standing committees meeting jointly shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;

2. Be withdrawn and amended to conform to the finding of deficiency; or

3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) If an administrative regulation has been found deficient by the standing committees or by the standing committees meeting jointly, the standing committees or standing committees meeting jointly shall transmit copies of its transmittal to the Governor to the regulations compiler.

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5) An administrative regulation that has been found deficient by the Administrative Regulation Review Subcommittee, the standing committees or by the standing committees meeting jointly shall be considered as adopted and become effective after:

(a) 1. The ***requirements of subsection (1) of this section have been met***[~~standing committees of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290 has:~~

~~a. Considered the administrative regulation;~~

~~b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or~~

~~c. Failed to meet within thirty (30) days of such assignment~~]; and

2. The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or

(b) The subcommittee, standing committees, or standing committees meeting jointly that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 23. KRS 13A.335 is amended to read as follows:

(1) An administrative regulation found deficient by a subcommittee shall not ***be considered deficient***[~~expire~~] if:

(a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;

(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects ***the***[~~such~~] deficiency; and

(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.

(2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not ***be considered deficient***[~~expire~~] if:

(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;

(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and

(c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not ***be considered deficient***[~~expire~~].

(3) An administrative regulation found deficient by a subcommittee shall not ***be considered deficient***[~~expire~~] if the subcommittee:

(a) Reconsiders the administrative regulation and its finding of deficiency; and

(b) Approves a motion that the administrative regulation is not deficient.

(4) (a) If an existing administrative regulation has been amended and found deficient by a subcommittee, it shall not ***be considered deficient***[~~expire~~] if the:

1. Administrative regulation was found deficient due to the amendment;

2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and

3. Regulations compiler has not received the Governor's determination pursuant to KRS 13A.330 or 13A.331.

(b) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation ***was found deficient by the [name of subcommittee] on [date]***[~~shall expire on adjournment of the next regular session of the General Assembly~~]." This notice shall be the last section of the administrative regulation.

(c) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph (b) of this subsection.

(d) If an administrative regulation that has been found deficient by a subcommittee has ***subsequently*** been[~~ amended and~~] determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph (b) of this subsection.

Section 24. The following KRS sections are repealed:

13A.012 Inclusion of osteopaths within references to physicians in administrative regulations.

13A.2264 Incorporation by reference of federal regulation -- Prohibitions.

13A.2267 Certain federal regulations prohibited from incorporation -- Procedure for submission of federal regulations.

Section 25. Whereas the reorganization of state government began with the issuance of Executive Order 2003-064, dated December 23, 2003, and whereas the executive branch of state government is already operating under the reorganized structure of the cabinets, and whereas it is important that the administrative regulations in effect reflect the current structure and organization of state government, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 683, AN ACT relating to government actions and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) No executive order shall repeal any statute. Each executive order issued by the Governor after the effective date of this Act shall be:

(a) Identified by one (1) and only one (1) of the following subject areas:

1. Appointments requiring confirmation;

2. Appointments not requiring confirmation;

3. Matters of a ceremonial or honorary nature;

4. Approvals of legal employment or contract under KRS 12.210;

5. Matters relating to criminal justice and corrections;

6. Reorganizations of state government;

7. Declarations of a state of emergency or issuance of state active duty orders; or

8. Other matters pertaining to the operation or official policy of the government of Kentucky; and

(b) Numbered in a manner to identify the year in which the order is issued, the subject area specified in paragraph (a) of this subsection, and, within each subject area, numbered in consecutive numerical order by date of issuance; and

(c) Filed with the Secretary of State.

(2) The Secretary of State shall forward a copy of each filed executive order to the director of the Legislative Research Commission on the day the order is filed.

(3) Any executive order identified by one (1) of the subject areas listed in subparagraph 6. or 8. of subsection (1)(a) of this section shall not become effective until thirty-five (35) days after the order is filed with the Secretary of State. The co-chairs of the Legislative Research Commission shall refer each of these executive orders to the House of Representatives or Senate standing committee during legislative sessions, the interim joint committee or other subcommittee of the Legislative Research Commission, or the statutory committee of the Legislative Research Commission or General Assembly with jurisdiction over the subject matter of the executive order. The co-chairs of the Legislative Research Commission shall refer each executive order specified in this subsection to a committee within two (2) working days after the director of the Legislative Research Commission receives the order. The committee to which an order is referred shall review the order within thirty (30) days following referral by the co-chairs of the Legislative Research Commission. The reviewing committee shall report its findings and objections, if any, to the Legislative Research Commission for transmittal to the General Assembly when next convened. An objection reported to the Legislative Research Commission by the reviewing committee shall be upon the vote of a majority of the committee members of either chamber. Executive orders relating to reorganization shall be subject to Section 3 of this Act.

(4) Prior to each regular session of the General Assembly, the Legislative Research Commission staff shall draft legislation for introduction in the Senate and the House of Representatives relating to executive orders identified as pertaining to the operation or official policy of the government of the Commonwealth of Kentucky since the commencement of the previous regular session of the General Assembly and which have been objected to by a committee under this section.

(a) The legislation specified in this subsection shall:

1. Identify each executive order and provide that they shall be null, void, and unenforceable as of the effective date of the Act;

2. Prohibit the Governor from adopting an executive order that is identical to or substantially the same as the executive order declared void for a period of one (1) year from sine die adjournment of the legislative session in which the legislation is enacted; and

3. Contain an emergency clause that shall specify that the legislation takes effect upon its passage and approval by the Governor or upon its otherwise becoming law. The title of the legislation shall indicate that the legislation declares an emergency.

(b) The Senate bill shall be delivered to the President of the Senate and the House of Representatives bill shall be delivered to the Speaker of the House of Representatives on the first day of the regular session in his or her respective chamber.

(c) The General Assembly may amend either or both bills to:

1. Include additional executive orders; or

2. Delete executive orders from either or both bills.

(d) The legislation may also include reorganization executive orders under KRS Chapter 12 which have not been enacted into law by the General Assembly.

(5) Not later than September 30, 2004, the Governor shall compile a list of all executive orders currently in effect and shall provide the list to the Legislative Research Commission. On the list, the Governor shall identify those executive orders that should remain in effect and those executive orders that he shall revoke or repeal because they are unnecessary or obsolete. Any executive order that the Governor does not continue in effect or revoke or repeal effective on another date shall expire as of October 31, 2004.

(6) Every executive order in effect at the end of a Governor's final term of office shall expire ninety (90) days thereafter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Each administrative body created by an executive order shall expire ninety (90) days after the end of the term of office of the Governor who issued the executive order unless the administrative body is established by enactment of the General Assembly.

(2) Each administrative body created by a statewide elected official other than the Governor shall expire ninety (90) days after the end of the final term of office of the official who created the administrative body unless the administrative body is established by enactment of the General Assembly.

(3) Each administrative body created by an administrative order shall expire ninety (90) days after the end of the final term of office of the Governor whose appointee created the administrative body unless the administrative body is established by enactment of the General Assembly.

Section 3. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint legislative committee with appropriate jurisdiction. The Governor may not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by the Kentucky Economic Development Partnership as created in KRS 154.10-010, or another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that he heads.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the ***co-chairs***[~~presiding co-chairman~~] of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ***two (2) working***[~~ten (10)~~] days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within ***thirty (30)***[~~sixty (60)~~] days after it is ***referred by the co-chairs of***[~~filed with~~] the Legislative Research Commission. If the committee does not report on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.

(5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor, the Kentucky Economic Development Partnership

as created in KRS 154.10-010, and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.

(6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

Section 4. KRS 11.160 is amended to read as follows:

(1) When a statute specifically requires Senate confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:

(a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the Senate upon appointment or no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

(b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.

The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee, together with such accompanying information as may expedite the consideration of the appointment to the clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

(c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the Senate a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:

1. Complete employment history of the nominee;

2. Complete educational background of the nominee; and

3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.

(d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within ***two (2) working***[~~seven (7)~~] days after making the appointment.

(e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.

(f) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.

(g) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the applicable special or regular session of the General Assembly at which the appointment was to be confirmed. If the Senate declines to confirm the nominee, the position shall become vacant upon the date the Senate declined to confirm.

(h) Any person not confirmed by the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date the Senate declined to confirm the nomination or the date of sine die adjournment if the Senate declined to consider the nomination.

(2) When a statute specifically requires Senate and House of Representatives confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:

(a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the House of Representatives no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

(b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session. The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee to the clerk of the House of Representatives not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

(c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the House of Representatives a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:

1. Complete employment history of the nominee;
2. Complete educational background of the nominee; and
3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.

(d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within ***two (2) working***[~~seven (7)~~] days after making the appointment.

(e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.

(f) The confirmation shall originate in the House of Representatives. If the House of Representatives does not confirm an appointment, the Senate shall not consider the appointment.

(g) When both the Senate and the House of Representatives have confirmed an appointment, the Senate shall notify the House of Representatives of the final approval. The clerk of the House shall then notify the Governor, or other appointing authority, and the appointee in writing of the General Assembly's action.

(h) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.

(i) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the House of Representatives or the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the regular session of the General Assembly at which the appointment was to be confirmed. If the House of Representatives or the Senate declines to confirm the nominee, the position shall become vacant upon the date that a chamber of the General Assembly first declined to confirm.

(j) Any person not confirmed by the House of Representatives or the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date that a chamber of the General Assembly first declined to confirm the nomination, or the date of sine die adjournment if the House of Representatives or the Senate declined to consider the nomination.

Section 5. Whereas it is essential for the public and the administrative agencies of state government that the status of executive orders be clearly established, so that the executive powers of the Governor can proceed efficiently and within the law, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

HJR 207, A JOINT RESOLUTION directing the Personnel Cabinet to study the feasibility of using a health reimbursement arrangement to supplement state employee health insurance.

WHEREAS, the General Assembly recognizes the rising cost of health insurance provided to state employees; and

WHEREAS, Section 105 of the Internal Revenue Code permits employers to provide reimbursement to employees for certain medical expenses using tax-free dollars through the establishment of health reimbursement arrangements; and

WHEREAS, recent rulings by the Internal Revenue Service have expanded the potential uses of health reimbursement arrangements in conjunction with cafeteria plans and health insurance coverage; and

WHEREAS, the use of health reimbursement arrangements may encourage greater discretion by employees in the use of medical services and reduce employer costs; and

WHEREAS, the Commonwealth has a responsibility to its employees to ensure adequate medical coverage while making the most efficient use of taxpayer dollars;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Personnel Cabinet, or its successor agency, in conjunction with the Kentucky Group Health Insurance Board shall conduct a study to determine if a health reimbursement arrangement would provide a benefit to employees and reduce employer costs for health insurance.

Section 2. The Kentucky Group Health Insurance Board shall include the findings of the study in its annual report submitted to the Governor, General Assembly, and Chief Justice of the Supreme Court by October 1, 2004.

HCR 210, A CONCURRENT RESOLUTION creating a task force on trafficking in persons.

WHEREAS, the continued existence of sexual and economic slavery and peonage within the criminal community represents a clear and present danger to the very foundation of our civil society; and

WHEREAS, the government of the United States recognizes this danger and works to eliminate this evil, both on the international and national levels, as with the passage of the Victims of Trafficking and Violence Prevention Act of 2000 (22 U.S.C. 7102 et. seq.); and

WHEREAS, the Commonwealth of Kentucky, acting under its sovereign authority, has an obligation to protect the citizens and residents of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall establish a Trafficking in Persons Task Force to analyze and assess the problem of human trafficking including, but not limited to, the following:

(1) An identification of federal and state law relating to trafficking in persons;

(2) An identification of federal, state, and local agencies involved in the prevention of trafficking in persons;

(3) The effectiveness of existing state and local programs in preventing human trafficking;

(4) The effectiveness of existing state and local programs in serving victims of human trafficking, including health care, housing, education, and legal assistance; and

(5) An identification of advisable statutory and programmatic changes to aid in the prevention of human trafficking and in aiding the victims of human trafficking.

Section 2. The Task Force shall be composed of ten legislative members. The President of the Senate shall appoint five members from the Senate, at least two of whom shall be members of the minority party in the Senate, and the Speaker of the House shall appoint five members from the House of Representatives, at least two of whom shall be members of the minority party in the House. The President of the Senate and the Speaker of the House shall each select one member from among that officer's appointees to serve as a co-chair of the task force.

Section 3. The task force shall develop a report and submit it to the Legislative Research Commission by October 1, 2004.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 210** is as follows:

HCR 210, A CONCURRENT RESOLUTION creating a task force on trafficking in persons.

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(2) An identification of federal, state, and local agencies involved in the prevention of trafficking in persons;

(3) The effectiveness of existing state and local programs in preventing human trafficking;

(4) The effectiveness of existing state and local programs in serving victims of human trafficking, including health care, housing, education, and legal assistance; and

(5) An identification of advisable statutory and programmatic changes to aid in the prevention of human trafficking and in aiding the victims of human trafficking.

Section 2. The Task Force shall contain six legislative members. The President of the Senate shall appoint three members from the Senate, at least one of whom shall be a member of the minority party in the Senate, and the Speaker of the House shall appoint three members from the House of Representatives, at least one of whom shall be a member of the minority party in the House. The President of the Senate and the Speaker of the House shall each select one member from among that officer's appointees to serve as a co-chair of the task force.

Section 3. The Task Force shall contain the following members from the executive branch:

(1) The Attorney General, or his or her designee;

(2) The secretary of the Justice Cabinet, or his or her designee;

(3) The secretary of the Cabinet for Families and Children, or his or her designee; and

(4) A designee of the Kentucky Department of Education who is employed in a program within the department relating to the education of the children of migratory workers.

Section 4. The Task Force shall contain the following nonlegislative members, with the representative from each named entity below being jointly appointed by the President of the Senate and the Speaker of the House of Representatives from a list of three potential appointees submitted by each entity:

(1) The Kentucky Circuit Judges Association;

(2) The Kentucky District Judges Association;

(3) The Kentucky Commonwealth's Attorneys Association;

(4) The Kentucky County Attorneys Association;

(5) The Kentucky Association of Chiefs of Police;

(6) The Kentucky Sheriffs Association;

(7) The Kentucky League of Cities;

(8) The Kentucky Domestic Violence Association;

(9) The Kentucky Association of Sexual Assault Programs;

(10) Kentucky Refugee Ministries;

(11) Catholic Charities;

(12) Western Kentucky Refugee Mutual Assistance Association;

(13) The Family Advocacy Program at Fort Knox;

(14) The Center for Women and Families; and

(15) Kentucky Chapter, National Association of Social Workers.

Section 5. Upon approval of the Legislative Research Commission, the Task Force may begin meeting after the appointment of its legislative members.

Section 6. The task force shall develop a report and submit it to the Legislative Research Commission by November 1, 2004.

Section 7. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 215, A CONCURRENT RESOLUTION relating to plaques and memorial displays.

With heavy hearts we pause to pay homage to one of the greatest
statesmen ever to serve the citizens of the Commonwealth.

We pay tribute to our departed friend and colleague Philip Joseph Clarke.

WHEREAS, the hardest thing any person ever does is say good-bye to a dear friend, and in September 2003, the entire state had to say good-bye to one of the most genuine, unselfish, and untiring public servants who ever graced the halls of the Capitol, we had to say good-bye to Joe Clarke; and

WHEREAS, the Lord blessed the Commonwealth with Joe Clarke on March 12, 1933 when he was born in Danville, Kentucky, the first child of Philip and Marie Newton Clarke; and

WHEREAS, Joe Clarke was an exemplary young man who attained the rank of Eagle Scout at one of the youngest ages for his day; and

WHEREAS, after graduating from Danville High School, Joe Clarke left Kentucky to receive a bachelor degree from Notre Dame University, a law degree from Georgetown University in Washington, D.C., and to work for several years as an attorney for the United States Patent Office before returning to his beloved hometown to practice law; and

WHEREAS, in 1970, the citizens of Boyle County bestowed their trust in Joe Clarke to represent them in the Kentucky House of Representatives, a trust he in the discharge of his duties honored by always exemplifying the motto of the Boy Scouts of America "Be Prepared" beyond his retirement from the General Assembly in 1998 until his death; and

WHEREAS, in what was at the time perhaps an unprecedented turn of events, Joe Clarke was appointed Chairman of the Appropriations and Revenue Committee after his first term in the House, a post he held for two decades and reluctantly surrendered to serve as the Speaker of the House; and

WHEREAS, Joe Clarke's peers turned to him to become Speaker of the House of Representatives during a dark period in legislative history, and Joe rose to the occasion, shepherding the wounded institution over the most difficult moments in 1993 and 1994; and

WHEREAS, as a testimony to his character, Joe Clarke's many colleagues over the years when referring to Joe fondly recall him as "an unparalleled budget expert with superior knowledge of the budget process," "a person who always had the welfare of the entire state in mind any time he evaluated the budget or a piece of legislation," "the ultimate statesman," "frank and to the point," "a role model," "committed to public service for the right reasons," and "an overwhelming honest person and a man of great personal and professional integrity"; and

WHEREAS, Joe Clarke was an accomplished attorney, and a member and officer of several professional organizations, including the Kentucky, Virginia, and American bar associations and the National Board of Trial Advocacy; and

WHEREAS, during his tenure in the General Assembly, Joe Clarke served on the governing board of the Council of State Governments, and as chair of the Council's Environmental Quality Committee, as well as chair of the Southern Legislative Conference; and

WHEREAS, Joe Clarke was a member of the National Legislative Conference Executive Committee and co-chair of the Legislative Research Commission; and

WHEREAS, throughout his life Joe Clarke was active in the Danville Community, working with the Boy Scouts, the Danville-Boyle County Chamber of Commerce, and the Boyle County Industrial Foundation; and

WHEREAS, Joe Clarke was a devout Catholic whose faith was the foundation upon which as a young man he built the principles that would guide his life and which resulted in his compassionate efforts to help his fellow man; and

WHEREAS, Joe Clarke made many personal sacrifices during his years in Frankfort, sacrifices he willingly made for the betterment of the citizens of the Commonwealth -- for he was a remarkable man, humble, and deserving of our respect and gratitude; and

WHEREAS, Joe Clarke's death has been an exceptional loss for his sisters Margaret Knott and Mary Francis Toro; his sons Sam, John, Geoffrey, and David Clarke; and his grandchildren Aaron, Joseph, Owen, Annie, Elizabeth, Lucy, and Thomas Clarke; and

WHEREAS, Joe Clarke's legacy to the citizens of the Commonwealth will be the twenty years he helped forge state budgets, ensuring that decisions were not made based upon politics or a personal agenda, but upon a steadfast commitment to honest government and the public interest; and

WHEREAS, Joe Clarke's death has left a void in our hearts that only the Lord Jesus Christ can fill; and

WHEREAS, today the Kentucky General Assembly is a stronger and more independent body because in 1974 Joe Clarke had the courage to become the first A&R Chairman to conduct legislative budget hearings;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The members of the House of Representatives and the Senate posthumously proclaim Joe Clarke one of

Kentucky's first "Architects of Legislative Independence" as a result of his courageous leadership in instituting legislative budget hearings at a time when Kentucky Governors dominated the entire budget process.

Section 2. The General Assembly directs the Legislative Research Commission to secure and maintain a plaque or memorial display of the size, shape, and composition determined by the Director of the Legislative Research Commission for the purpose of memorializing former House Speaker Joe Clarke.

Section 3. The plaque or memorial display shall occupy a position of prominence either inside the room or near the outside entrance to the committee room generally used by the House Appropriations and Revenue Committee. The following text shall appear on the plaque or memorial display selected by the Director:

"House A&R Chairman Joe Clarke (1972-1993)
Conducted Kentucky's First Legislative Budget Hearing in 1974
"An Architect of Legislative Independence"
To God Be the Glory"

SB 150, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.

(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:

(a) Department of Education.

(1) Kentucky Board of Education.

(b) Department for Libraries and Archives.

(c) Kentucky Arts Council.

(d) Kentucky Educational Television.

(e) Kentucky Historical Society.

(f)[~~Kentucky Teachers' Retirement System Board of Trustees.~~

~~(g)~~] Kentucky Center for the Arts.

(g)[~~(h)~~] Kentucky Craft Marketing Program.

(h)[~~(i)~~] Kentucky Commission on the Deaf and Hard of Hearing.

(i)[~~(j)~~] Governor's Scholars Program.

(j)[~~(k)~~] Governor's School for the Arts.

(k)[~~(l)~~] Operations and Development Office.

(l)[~~(m)~~] Kentucky Heritage Council.

(m)[~~(n)~~] Kentucky African-American Heritage Commission.

(n)[~~(o)~~] Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of Legal Services.

(g) Office of Information Services.

(h) Office of Inspector General.

4. Transportation Cabinet:

(a) Department of Highways.

1. Office of Program Planning and Management.

2. Office of Project Development.

3. Office of Construction and Operations.

4. Office of Intermodal Programs.

5. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Department of Human Resources Management.

(g) Office of the Secretary.

(h) Office of General Counsel and Legislative Affairs.

(i) Office of Public Affairs.

(j) Office of Transportation Delivery.

(k) Office of Minority Affairs.

(l) Office of Policy and Budget.

(m) Office of Technology.

(n) Office of Quality.

(o) Office of the Transportation Operations Center.

5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department for Business Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Department for Regional Development.
    (f) Tobacco Research Board.
    (g) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.
    (e) Department of Mines and Minerals.
    (f) Department of Public Advocacy.
    (g) Department of Alcoholic Beverage Control.
    (h) Kentucky Racing Commission.
    (i) Board of Claims.
    (j) Crime Victims Compensation Board.
    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
    (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
    (n) Department of Charitable Gaming.
    (o) Mine Safety Review Commission.
7. Cabinet for Families and Children:
    (a) Department for Community Based Services.
    (b) Department for Disability Determination Services.
    (c) Public Assistance Appeals Board.
    (d) Office of the Secretary.
        (1) Kentucky Commission on Community Volunteerism and Service.
    (e) Office of the General Counsel.
    (f) Office of Program Support.
    (g) Office of Family Resource and Youth Services Centers.
    (h) Office of Technology Services.
    (i) Office of the Ombudsman.
    (j) Office of Human Resource Management.
8. Cabinet for Health Services.
    (a) Department for Public Health.
    (b) Department for Medicaid Services.
    (c) Department for Mental Health and Mental Retardation Services.
    (d) Kentucky Commission on Children with Special Health Care Needs.
    (e) Office of Certificate of Need.
    (f) Office of the Secretary.
    (g) Office of the General Counsel.
    (h) Office of the Inspector General.
    (i) Office of Aging Services.
9. Finance and Administration Cabinet:
    (a) Office of Financial Management.

(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h)[~~Deferred Compensation Systems.~~
~~(i)~~] Office of Equal Employment Opportunity Contract Compliance.
(i)[~~(j)~~] Office of Capital Plaza Operations.
(j)[~~(k)~~] County Officials Compensation Board.
(k)[~~(l)~~] Kentucky Employees Retirement Systems.
(l)[~~(m)~~] Commonwealth Credit Union.
(m)[~~(n)~~] State Investment Commission.
(n)[~~(o)~~] Kentucky Housing Corporation.
(o)[~~(p)~~] Governmental Services Center.
(p)[~~(q)~~] Kentucky Local Correctional Facilities Construction Authority.
(q)[~~(r)~~] Kentucky Turnpike Authority.
(r)[~~(s)~~] Historic Properties Advisory Commission.
(s)[~~(t)~~] Kentucky Tobacco Settlement Trust Corporation.
(t)[~~(u)~~] Eastern Kentucky Exposition Center Corporation.
(u)[~~(v)~~] State Board for Proprietary Education.
(v) Office for Technology.
(w) Kentucky Higher Education Assistance Authority.
(x) Kentucky River Authority.
(y) Department of Revenue
(z) Kentucky Teachers' Retirement System Board of Trustees.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. [~~Revenue Cabinet:~~
~~(a) Department of Property Valuation.~~
~~(b) Department of Tax Administration.~~
~~(c) Office of Financial and Administrative Services.~~
~~(d) Department of Law.~~

~~(e) Department of Information Technology.~~
~~(f) Office of Taxpayer Ombudsman.~~
~~12.~~] Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.
12.[~~13.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.
13.[~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.

7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Kentucky Coal Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) [~~Governor's Office for Technology;~~
~~(10)~~]Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy;
(12)[~~(13)~~] Office of Early Childhood Development;
(13)[~~(14)~~] Kentucky Agency for Substance Abuse Policy; and
(14)[~~(15)~~] Education Professional Standards Board.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health Services.
(8) Cabinet for Families and Children.
(9) Finance and Administration Cabinet.
(10) Tourism Development Cabinet.
(11) [~~Revenue Cabinet.~~
~~(12)~~]Labor Cabinet.
(12)[~~(13)~~] Cabinet for Workforce Development.
(13)[~~(14)~~] Personnel Cabinet.

Section 4. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, [~~the Revenue Cabinet,~~]the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 5. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Financial Management, the Office of Capital Plaza Operations, [~~and~~]the Office of the Controller, ***and the Office for Technology,*** each of which shall be headed by an executive director, the Department for Administration, ***the Department of Revenue,*** and the Department for Facilities Management, each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 6. KRS 11.068 is amended to read as follows:

(1) There is created an agency of state government known as the Office of State Budget Director. The office shall be attached for administrative purposes to the Office of the Governor.

(2) The office shall include the following major organizational units:

(a) The Office of State Budget Director, headed by the state budget director. The state budget director shall be appointed by the Governor pursuant to KRS 11.040 and shall serve, under direction of the Governor, as state budget director and secretary of the state planning committee. The office shall include such principal assistants and supporting personnel appointed pursuant to KRS Chapter 12 as may be necessary to carry out the functions of the office. The office shall have such duties, rights, and responsibilities as are necessary to perform, without being limited to, the following functions:

1. Functions relative to the preparation, administration, and evaluation of the executive budget as provided in KRS Chapters 45 and 48 and in other laws, including but not limited to, capital construction budgeting, evaluation of state programs, program monitoring, financial and policy analysis and issue review, and executive policy implementation and compliance;

2. Continuous evaluation of statewide management and administrative procedures and practices, including but not limited to, organizational analysis and review, economic forecasting, technical assistance to state agencies, forms control, and special analytic studies as directed by the Governor; and

3. Staff planning functions of the state planning committee and evaluation of statewide management and administrative practices and procedures.

(b) Governor's Office for Policy and Management, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out the functions of the office relating to state budgeting as provided in paragraph (a) of this subsection and state planning as provided in KRS Chapter 147, review of administrative regulations proposed by executive agencies prior to filing pursuant to KRS Chapter 13A and such other duties as may be assigned by the Governor.

(c) Governor's Office for Policy Research, headed by the state budget director. The Governor's Office for Policy Research shall assist the state budget director in providing policy research data, information, and analysis to the Governor on public policy issues that impact the Commonwealth. The state budget director shall identify and direct the research to be completed and provided by the office. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office.

(d) Governor's Office for Economic Analysis, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office. The Governor's Office for Economic Analysis shall carry out the revenue estimating and economic analysis functions and responsibilities, including but not limited to the functions and responsibilities assigned to the Office of State Budget Director by KRS 48.115, 48.117, 48.120, 48.400, and 48.600. The Governor's Office for Economic Analysis shall perform the tax administrative function of using tax data to provide the ***Department of*** Revenue[~~ Cabinet~~] with studies, projections, statistical analyses, and any other information that will assist the ***Department of*** Revenue[~~ Cabinet~~] in performing its tax administrative functions.

Section 7. KRS 11.505 is amended to read as follows:

(1) There is hereby created within the ***Finance and Administration Cabinet***[~~Office of the Governor~~] an agency of state government known as the [~~Governor's~~]Office for Technology.

(2) The [~~Governor's~~]Office for Technology shall be headed by ***an executive director, who shall be designated*** the chief information officer for the Commonwealth established in KRS 11.511.

(3) The [~~Governor's~~]Office for Technology shall consist of the following six (6) executive offices, each headed by an executive director:

(a) Office of Geographic Information;

(b) Office of Human Resource Management and Development;

(c) Office of Administrative Services, consisting of the:
  1. Division of Financial and Business Management; and
  2. Division of Asset Management;

(d) Office of Policy and Customer Relations, consisting of the:
  1. Division of Planning and Architecture;
  2. Division of Relationship Management; and
  3. Division of Information Technology Training;

(e) Office of Infrastructure Service, consisting of the:
  1. Division of End User Support;
  2. Division of Security Services;
  3. Division of Computing Services;
  4. Division of Communication Services; and
  5. Division of Information Technology Operations;

(f) Office of Consulting and Project Management, consisting of the:
  1. Division of Centers of Expertise;
  2. Division of Project Office and Integration;
  3. Division of Human Services Systems;
  4. Division of Financial Systems;
  5. Division of Transportation Systems;
  6. Division of Workforce Development and General Government Systems; and

(g) Office of General Counsel.

Section 8. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:
  1. The secretary of the Transportation Cabinet or his designee;
  2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
  3. The director of the Kentucky Geological Survey or his designee;
  4. The secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet or his designee;
  5. The chief information officer or her or his designee;
  6. The secretary of the Economic Development Cabinet or his designee;
  7. The commissioner of the Department for Local Government or his designee;
  8. The secretary of the Justice Cabinet or his designee;
  9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
  10. The adjutant general of the Department of Military Affairs or his designee;
  11. The commissioner of the Department of Education or his designee;
  12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
  13. The Commissioner of the Department of Agriculture or his designee;
  14. The secretary of the Public Protection and Regulation Cabinet or his designee;

15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 9. KRS 15.060 is amended to read as follows:

The Attorney General shall:

(1) With the assistance of the Auditor of Public Accounts and the ***Department of*** Revenue[~~ Cabinet~~], investigate the condition of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth.

(2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same. To this end he may employ assistants and experts to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any of the officers of the Commonwealth.

(3) Institute the necessary actions to collect and cause the payment into the Treasury of all unsatisfied claims, demands,

accounts and judgments in favor of the Commonwealth, except where specific statutory authority is given the ***Department of*** Revenue [~~Cabinet~~]to do so.

(4) Comply with KRS 48.005, if any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any legal action, including an ex rel. action in which the Attorney General has entered an appearance or is a party under statutory or common law authority.

Section 10. KRS 15.105 is amended to read as follows:

(1) The Attorney General, with the approval of the head of the cabinet involved shall appoint assistant attorneys general for the Transportation Cabinet ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~].

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective agency to which they are assigned.

Section 11. KRS 29A.040 is amended to read as follows:

(1) A list of all persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county, of the names and addresses of all persons filing Kentucky resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county shall constitute a master list of prospective jurors for a county.

(2) The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet, an electronic copy of the tax roll described in subsection (1) of this section from the ***Department of*** Revenue[~~ Cabinet~~], and an electronic copy of the voter registration lists from the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics. The Transportation Cabinet, the ***Department of*** Revenue[~~ Cabinet~~], the State Board of Elections, and the Department of Vital Statistics and those public officers or employees having custody, possession, or control of any of the lists required under this section shall annually furnish a copy of the list to the Administrative Office of the Courts without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of county residence, or any other reason causing a person to be ineligible for jury service as found in KRS 29A.080.

(4) Any person who comes into possession of the Kentucky income tax names and addresses as provided in this section shall be bound by the confidentiality provisions of KRS 131.190.

Section 12. KRS 40.540 is amended to read as follows:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary of the Finance and Administration Cabinet the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], who shall promptly ascertain from the records of his agency whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the ***commissioner***[~~secretary~~] of ***the Department of*** Revenue shall, within three (3) working days after this receipt of the certificate, furnish the details thereof to the secretary of Finance and Administration; and if no advice of tax delinquency is received by the secretary of Finance and Administration before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of KRS 40.410 to 40.560, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary of Finance and Administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the State Treasury for a check in payment, except that no warrant shall be drawn by the secretary until sufficient funds have become available to pay the bonus authorized by KRS 40.410 to 40.560.

(c) Upon receipt of such warrant the State Treasurer shall issue a check in accordance therewith payable from funds made available for payment of the bonus authorized by KRS 40.410 to 40.560, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary of Finance and Administration shall, within the allowed time, receive advice from the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary of Finance and Administration shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against

the bonus payment.

(a) If the secretary of finance and administration receives no protest in his office within ten (10) working days after recording such notice, he shall conclusively presume that the proposed set-off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] of the amount set off against the bonus, which advice shall be noted by the secretary of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the secretary shall draw a warrant upon the State Treasury for a check in the amount of the remainder, and upon receiving such check from the State Treasurer, shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary of finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the ***commissioner of the Department of Revenue***[~~secretary of revenue~~].

Section 13. KRS 41.070 is amended to read as follows:

(1) Unless otherwise expressly provided by law, no receipts from any source of state money or money for which the state is responsible shall be held, used, or deposited in any personal or special bank account, temporarily or otherwise, by any agent or employee of any budget unit, to meet expenditures or for any other purpose. All receipts of any character of any budget unit, all revenue collected for the state, and all public money and dues to the state shall be deposited in state depositories in the most prompt and cost-efficient manner available. However in the case of state departments or agencies located outside Frankfort, and all state institutions, the Finance and Administration Cabinet may permit temporary deposits to be made to the accounts maintained by the agency, department, or institution in a bank which has been designated as a depository for state funds for a period not to exceed thirty (30) days, and may require that the money be forwarded to the State Treasury at the time and in the manner and form prescribed by the cabinet. Nothing in this section shall be construed as authorizing any representative of any agency, department, or institution to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(2) Each agency depositing its receipts directly with the State Treasurer shall do so in the manner approved by the State Treasurer as agent in charge of public fund deposits.

(3) The ***Department of*** Revenue [~~Cabinet~~]may deposit receipts to the credit of the State Treasury directly with a depository designated by the Treasurer and utilized by the Commonwealth for its primary banking services. The State Treasurer, with the approval of the Finance and Administration Cabinet, may authorize other agencies to deposit receipts directly with a depository designated by the Treasury to the credit of the State Treasury if the Treasurer prescribes the manner in which the deposit is to be made, and the forms and reports to be filed with the Treasury Department. The Finance and Administration Cabinet shall prescribe the forms and reports to be filed with it when this type of deposit is made.

(4) Each department, agency, or other budget unit which receives funds to be deposited into the State Treasury shall maintain records to report adequately each amount received, from whom received, and date received. Agency records shall be easily reconcilable with the information forwarded to the State Treasurer.

Section 14. KRS 41.360 is amended to read as follows:

(1) Where any officer or employee of the state government or of any agency of the state government has authorized the State Treasurer to deduct from his compensation as such officer or employee a sum or sums for the purchase of United States Series E savings bonds, and thereafter, for any cause, has departed from such office or employment leaving unclaimed in the hands of the State Treasurer a sum arising from such deduction not equal to the amount for which such a bond may be purchased, the State Treasurer shall, within ninety (90) days after the date of the last deduction, mail to such officer or employee, at his last-known address as shown on the records of the Personnel Cabinet, a notice stating the sum held by the State Treasurer for such officer or employee, and requesting that he make claim for the same within six (6) months thereafter. A duplicate of such notice, addressed to the officer or employee, shall at the same time be delivered to the state agency of which the person was an officer or employee. If, at the expiration of six (6) months from the date of mailing the letter, the officer or employee has not made claim for the sum due him, the sum shall, as of July 1 following the expiration of such six-months' period, be presumed abandoned.

(2) On or before September 1 of each year the State Treasurer shall report to the ***Department of*** Revenue[~~ Cabinet~~], in duplicate, a list of the sums presumed to be abandoned as of the preceding July 1, giving the name of the officer or employee and his last-known address. The ***Department of*** Revenue[~~ Cabinet~~] shall cause the report to be posted and published as provided in KRS 393.110. If, by November 15 following such posting and publication, the sums involved have not been claimed, the State Treasurer shall place the sums to the credit of the general fund in the State Treasury and shall report that fact to the ***Department of*** Revenue[~~ Cabinet~~]. Thereafter such sums shall have the same status as other property turned over to the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 393.110, and the rights of any person to make claim for the same shall rest upon the same principles as the rights of other claimants of property presumed to be

abandoned under the provisions of KRS Chapter 393.

Section 15. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

(1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.

(2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis to generate final detailed revenue estimates.

(3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.

(4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.

(5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the ***Department of*** Revenue[~~ Cabinet~~].

(8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.

(9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.

(10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

(11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.

(12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:

(a) Receipts credited to the general fund which are subject to KRS 24A.191, KRS 24A.192, KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;

(b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and

(c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

(13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

Section 16. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

(a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

(c) Public transportation, including mass transit systems, streets, and roads;

(d) Health;

(e) Recreation;

  (f) Libraries and educational facilities;
  (g) Social services for the poor, the elderly, and individuals with disabilities;
  (h) Industrial and economic development;
  (i) Vocational education;
  (j) Workforce training; and
  (k) Secondary wood industry development.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The ***Department of*** Revenue~~[Cabinet]~~ shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 17. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman; the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor; the secretary of the Finance and Administration Cabinet; and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his or her signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

  (a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and
  (b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

  (a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;
  (b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his or her signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(b) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
    a. Bank for Cooperatives;
    b. Federal Intermediate Credit Banks; and
    c. Federal Land Banks;
3. Federal Home Loan Banks;
4. Federal National Mortgage Association; and
5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years;
3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section; and

(j) State and local delinquent property tax claims which upon purchase shall become certificates of delinquency secured by interests in real property not to exceed twenty-five million dollars ($25,000,000) in the aggregate. For any certificates of delinquency that have been exonerated pursuant to KRS 132.220(5), the ***Finance and Administration***~~[Revenue]~~ Cabinet shall offset ***its***~~[the]~~ loss ~~[suffered by the Finance and Administration Cabinet~~

]against subsequent local distributions to the affected taxing districts as shown on the certificate of delinquency.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds, and the regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments; and

(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130, the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the administrative regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 18. KRS 43.071 is amended to read as follows:

(1) The Auditor of Public Accounts shall annually audit each county clerk concerning:

(a) All receipts due from the collection of motor vehicle and motorboat registration fees, motor vehicle and motorboat licenses and other receipts due the clerk pertaining to motor vehicles and motorboats as prescribed in KRS Chapters 186, 186A and 235;

(b) All receipts due from the collection of motor vehicle usage tax as prescribed by KRS 138.460; and

(c) All receipts due from the collection of the ad valorem tax on motor vehicles and motorboats as prescribed by KRS 134.800.

These annual audits shall be completed by April 15 of the year following the year to be audited.

(2) The provisions of KRS 43.070 shall not apply to the separate and distinct duties imposed on the Auditor of Public Accounts pursuant to subsection (1) of this section. The audits specified in subsection (1) of this section shall be conducted prior to the audits mandated by KRS 43.070.

(3) Immediately upon completion of each audit, the Auditor of Public Accounts shall prepare a report of his findings noting any indebtedness to the Commonwealth. He shall furnish one (1) copy to the county clerk, one (1) copy to the secretary of the Transportation Cabinet, one (1) copy to the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ and one (1) copy to the secretary of the Natural Resources and Environmental Protection Cabinet. If the county clerk objects to any findings of indebtedness in the Auditor's report, he shall file a written response with the Auditor within ten (10) days of his receipt of the report. The Auditor shall consider the written response and within thirty (30) days of its receipt issue a final report. If the county clerk wishes to object to any findings of indebtedness contained in the final report, he shall file a

request within ten (10) days of his receipt of the final report for a hearing before a three (3) member panel composed of the secretary of transportation or his designee, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or his designee, and the president of the Kentucky County Clerks Association or his designee. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. The majority decision of this panel shall be determinative of any indebtedness to the Commonwealth. If the county clerk wishes to appeal the decision of this panel, he shall file the appeal in the Circuit Court for the county where he serves in accordance with KRS Chapter 13B.

Section 19. KRS 45A.715 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall not enter into any personal service contract for the collection of revenue for the state or for the prosecution of any action or proceeding for the collection of delinquent taxes owed by a resident and the assessment of omitted property owned by a resident.

Section 20. KRS 47.012 is amended to read as follows:

All moneys paid to the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 138.510 to 138.550 shall be deposited with the State Treasurer and be credited to the general expenditure fund.

Section 21. KRS 48.115 is amended to read as follows:

(1) Except as provided for in subsection (4) of this section, the detailed revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The consensus revenue forecast shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.

(2) If, after the revenue estimates made as required under KRS 48.120, the Legislative Research Commission or state budget director determines that a revision to the revenue estimates is needed, the Legislative Research Commission or state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.

(3) The state budget director shall coordinate with the ***Department of*** Revenue[~~ Cabinet~~] and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.

(4) Staff for the consensus forecasting group shall be provided by the Legislative Research Commission.

Section 22. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development, the secretary of the Finance and Administration Cabinet, [~~and the secretary of the Revenue Cabinet, ~~]or their alternates as authorized in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as that chapter may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter. As an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name, in accordance with the terms and provisions of KRS Chapter 58, secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application. Any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by or on behalf of the Kentucky Economic Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109, shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission may designate, by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four (4) years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any ***three (3)***[~~four (4)~~] members of the commission, or their alternates authorized under paragraph (a) of this subsection, shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 23. KRS 56.861 is amended to read as follows:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer;[~~ the secretary of the Revenue Cabinet;~~] and the state budget director, or their alternates as authorized in KRS 56.865. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with KRS 56.860 to 56.869, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.860 to 56.869.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to KRS 56.860 to 56.869 may be sold on a competitive or negotiated sale basis.

Section 24. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978, who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing a consolidated local government or a city of the first class, the amount of the county clerk's bond shall be at least five hundred thousand dollars ($500,000). In counties containing a city of the second class but not containing consolidated local governments and in counties containing an urban-county form of government, the amount of county clerk's bond shall be at least four hundred thousand dollars ($400,000). In counties containing a city of the third class but not a city of the first or second class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least one hundred thousand dollars ($100,000). In counties containing a city of the fourth or fifth class, but not a city of the first, second, or third class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least seventy-five thousand dollars ($75,000). In counties containing a city of the sixth class, but not a city of the first, second, third, fourth, or fifth class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

(3) The bond of the county clerk shall be examined and approved by the fiscal court, which shall record the approval in its minutes. The fiscal court shall record the bond in the county clerk's records and a copy of the bond shall be transmitted within one (1) month to the ***Department of*** Revenue[~~ Cabinet~~], where it shall be recorded and preserved. Except in those

counties where the fees of the county clerk are paid into the State Treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the ***Department of*** Revenue~~[Cabinet]~~ may request the fiscal court to increase the bond as provided in KRS 62.060. The fiscal court shall then require a bond of sufficient amount to safeguard the Commonwealth.

Section 25. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the ***Department of*** Revenue~~[Cabinet]~~, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) "City" means any city, consolidated local government, or urban-county;

(6) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "County" means any county, consolidated local government, or charter county;

(9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;

(10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(11) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more projects are proposed to be located, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of KRS 65.6971 or 65.6972;

(12) "Economic development authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(13) "Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to 154.45-110;

(14) "Governing body" means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under KRS 65.686, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or

(b) That agreement, including with respect to a development area satisfying the requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects in a

development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17) "Increments" means the amount of revenues received by any taxing district, determined by subtracting the amount of old revenues from the amount of new revenues in the calendar year with respect to a development area and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of KRS 65.6971 and the construction or improvement, within a development area meeting the requirements of KRS 65.6971, of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of KRS 65.6971;

(19) "Issuer" means a city, county, or an agency issuing increment bonds;

(20) "New revenues" means the amount of revenues received with respect to a development area in any calendar year after the activation date for a development area:

(a) Established under KRS 65.686, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue;

(21) "Old revenues" means the amount of revenues received with respect to a development area:

(a) Established under KRS 65.686, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or

(b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of KRS 65.6972, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the ***Department of*** Revenue[~~ Cabinet~~] to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the ***Department of*** Revenue[~~ Cabinet~~] for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Department of*** Revenue[~~ Cabinet~~] as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(23) "Primary project entity" means the entity responsible for control, ownership, and operation of the project within a development area satisfying the requirements of KRS 65.6972 which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of KRS 65.6972, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under KRS 65.686, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;

2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;

3. Being in or related to a development area; and

4. Having an estimated life or period of usefulness of one (1) year or more, including but not limited to real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(b) Satisfying the requirements of KRS 65.6971; an economic development project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a tourism attraction project defined under KRS 148.851; or

(c) Satisfying the requirements of KRS 65.6972, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber-optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction, or educational uses; or

4. Any combination thereof;

(25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of KRS 65.6972;

(26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

(28) "Termination date" means the date on which a development area shall cease to exist, which for purposes of a development area:

(a) Established under KRS 65.686, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or

(b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or

(c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection;

(29) "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and

(30) "Project costs" mean the total private and public capital costs of a project.

Section 26. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign

the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the ***Department of*** Revenue[~~Cabinet~~] for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the ***Department of*** Revenue[~~Cabinet~~] on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the ***Department of*** Revenue[~~Cabinet~~], the Cabinet is authorized and directed to transfer the increment to a tax increment financing

account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The ***Department of*** Revenue~~[Cabinet]~~ shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The ***Department of*** Revenue~~[Cabinet]~~ shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The ***Department of*** Revenue~~[Cabinet]~~ or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

Section 27. KRS 65.6972 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS 65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, ***and*** the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] in the development of the report. The Office of State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director ***and***[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the ***Department of*** Revenue[~~ Cabinet~~] for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the ***Finance and Administration***[~~Revenue~~] Cabinet, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the ***Finance and Administration***[~~Revenue~~] Cabinet and notice from the agency, each taxing district obligated under the grant contract, other than the

Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the ***Finance and Administration***[~~Revenue~~] Cabinet on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the ***Finance and Administration***[~~Revenue~~] Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The ***Department of*** Revenue[~~ Cabinet~~] or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

Section 28. KRS 68.245 is amended to read as follows:

(1) The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the ***Department of*** Revenue[~~ Cabinet~~] upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 29. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification, shall be submitted to the fiscal court for adoption not later than July 1 of each year. The budget as presented and amended shall be adopted as of July 1. The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS Chapter 424, at least seven (7) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable, but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

(4) The fiscal court may amend the budget on the basis of the assessment from the ***Department of*** Revenue[~~ Cabinet~~]. The fiscal court shall finalize the budget within thirty (30) days of the receipt of the certified assessment.

Section 30. KRS 75.040 is amended to read as follows:

(1) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010(2) provided that the property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:

(a) Acquisition and maintenance of adequate fire protection facilities;

(b) Acquisition and maintenance of adequate firefighting equipment;

(c) Recruitment, training, and supervision of firefighters;

(d) Control and extinguishment of fires;

(e) Prevention of fires;

(f) Conducting fire safety activities;

(g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;

(h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and

(i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of Revenue***[~~revenue Cabinet~~].

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

(5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.

(6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

Section 31. KRS 76.278 is amended to read as follows:

(1) In order to establish a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both, within the sanitation tax district, the sanitation tax district through its board may levy an ad valorem tax upon the real property in the district, not exceeding limits designated by the Constitution of the Commonwealth. Provided, however, that notice stating the amount of the proposed tax and the area to be affected be published in a newspaper of bona fide circulation as provided in KRS 424.130. Provided, further, that no resolution of the board imposing an ad valorem tax shall go into effect until the expiration of thirty (30) days after the first publication of the notice. If during the thirty (30) days next following the first notice of said resolution, a petition signed by a number of constitutionally qualified voters equal to fifteen percent (15%) of the votes cast within the area affected at the last preceding general election, stating the residence of each signer, and verified as to signatures and residence by the affidavits of one (1) or more persons is presented to the county judge/executive protesting against passage of such resolution or if the fiscal court passes a resolution suspending the tax, the resolution shall be suspended from going into effect. The county judge/executive shall notify the board of the sanitation tax district of the receipt of the petition or of the suspension of the resolution or both. If the resolution is not repealed by the board, the board shall submit to the voters of the area to be taxed, at the next regularly-scheduled November election, the question as to whether the tax shall be levied. The question as it will appear on the ballot shall be filed with the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the resolution shall go into effect as of January 1 of the year succeeding the year in which the election is held.

(2) When such tax levy has been fully approved, the property valuation administrator, with the cooperation of the board shall note on the tax rolls the taxpayers and valuation of the property subject to such tax. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~ Cabinet~~].

(3) Such ad valorem taxes shall be collected by the sheriff in accordance with the general law and accounted for to the board.

The sheriff shall be entitled to a fee of one percent (1%) of the amount collected.

Section 32. KRS 91.4883 is amended to read as follows:

(1) Within thirty (30) days after the filing with the Circuit Court clerk of an enforcement suit for the collection of unpaid taxes under the provisions of KRS 91.484 to 91.527, the collector shall cause a notice of enforcement to be published two (2) times, once each week, during successive weeks, and on the same day of each week, otherwise in accordance with the provisions of KRS Chapter 424.

(2) Such notice shall be in substantially the following form:

NOTICE OF ENFORCEMENT OF LIEN FOR DELINQUENT LAND TAXES BY ACTION IN REM

Public Notice is hereby given that on the .... day of ...., 19......, the City of .... of .... County, Kentucky, filed a petition, being Action Number ...., in the Circuit Court of .... County, Kentucky, at .... (stating the city), for the enforcement of liens for delinquent land taxes against the real estate situated in such city, all as described in said petition.

The object of said suit is to obtain from the court a judgment enforcing the city's tax and other liens against such real estate and ordering the sale of such real estate for the satisfaction of said liens thereon (except right of redemption in favor of the United States of America if any), including principal, interest, penalties, and costs. Such action is brought against the real estate only and no personal judgment shall be entered therein.

The count number assigned by the city to each parcel of real estate, a description of each such parcel by street address and the property valuation administrator's tax parcel number (district, block, lot and sub-lot), a statement of the total principal amount of all delinquent city tax bills against each such parcel of real estate, all of which, as to each parcel, is more fully set out and mentioned by count in the aforesaid petition, and the name of any taxing authority or person of record owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate as set out in the petition, are respectively as follows:

(Here set out the respective count numbers, property descriptions, names of taxpayers of record and statements of total principal amounts of tax bills, and names of those other interested persons of record next above referred to.)

The total principal amounts of delinquent taxes set out in this notice do not include the lawful interest, penalties, and costs which have accrued against the respective parcels of real estate.

Any person or taxing authority owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate must file an answer to such suit in the office of the Circuit Court clerk of .... county in ...., and a copy of such answer with the city of .... in accordance with the Kentucky Rules of Civil Procedure, on or before the .... day of ...., 19 ....., and in such answer shall set forth in detail the nature and the amount of such interest and any defense or objection to the enforcement of the tax liens, or any affirmative relief he or it may be entitled to assert with respect thereto.

Any person having any right, title, or interest in or to, or lien upon, any parcel of such real estate may have the city's claims against such parcel dismissed from the action by paying all of the sums mentioned therein to the city of .... including principal, interest, penalties, and costs then due, at any time prior to the enforcement sale of such real estate by the master commissioner.

In the event of failure to answer on or before the date herein fixed as the last day for filing answer in the suit, by any person having the right to answer, such person shall be forever barred and foreclosed as to any defense or objection he might have to the enforcement of such liens for delinquent taxes and the judgment of enforcement may be taken by default. Redemption may be made for a period of sixty (60) days after the master commissioner's enforcement sale, if the sale price is less than the parcel's current assessed value as certified by the ***Department of*** Revenue~~[Cabinet]~~. Each such person having any right, title, or interest in or to, or any lien upon, any such parcel of real estate described in the petition so failing to answer or redeem, as aforesaid, shall be forever barred and foreclosed of any right, title, or interest in or to, or lien upon, or any equity of redemption in said real estate.

.............................., Kentucky
(name of city)

....
Attorney
....
....
....
Address
....
Phone
....
Date of first publication

Section 33. KRS 91.4885 is amended to read as follows:

(1) The court shall order the master commissioner to sell, pursuant to the provisions of KRS 426.560 to 426.715, except as

otherwise provided in this section, each parcel separately by individual count number. The court shall further order that a report of the sale be made by the master commissioner to the court for further proceedings under the provisions of KRS 91.484 to 91.527.

(2) Prior to the master commissioner's setting each parcel for sale pursuant to court order, the collector shall file with the Circuit Court clerk an affidavit as to the most recent certified tax assessment of each parcel to be sold. The most recent certified assessment of a property shall be the property valuation administrator's last assessment which shall have been certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~] to the county clerk, as required by KRS 133.180.

(3) The most recent certified assessment as sworn to in the affidavit furnished by the collector shall be used in all actions brought under KRS 91.484 to 91.527 to determine the owner's equity of redemption as provided by KRS 91.511(2).

Section 34. KRS 91.511 is amended to read as follows:

(1) At any time prior to the sale of the property any person having any right, title or interest in, or lien upon, any parcel of real estate described in the petition may discharge any city lien or satisfy a judgment in favor of the city as to said parcel of real estate by paying to the collector all of the sums mentioned therein, including the principal, interest, penalties, and costs then due.

(2) If the property is sold pursuant to the judgment or order of the court and does not bring its most recent assessed value certified by the ***Department of*** Revenue[~~ Cabinet~~] to the county clerk as required by KRS 133.180, the owner may redeem it within sixty (60) days from the day of the sale, by paying the purchaser the original purchase money and interest at eighteen percent (18%) per annum. Any owner who redeems his land shall take a receipt from the purchaser and lodge it with the clerk of the court. The receipt shall be entered upon the records of the court.

(3) The owner may tender the redemption money to the purchaser, his agent or attorney, if found in the county where the land lies or in the county in which the judgment was obtained or order of sale made. If the money is refused, or if the purchaser does not reside in either of the counties, the owner may, before the expiration of the right of redemption, go to the clerk of the court in which the judgment was rendered or the order made, and make affidavit of the tender and refusal, or that the purchaser or his agent or attorney do not reside in either of the counties. He may then pay to the clerk the redemption money, and the clerk shall give receipt therefor and file the affidavit among the papers of the action.

(4) When the right of redemption exists, the owner may remain in possession of the property until it expires. Real property so sold shall not be conveyed to the purchaser until the right of redemption has expired. If it is redeemed, the sale shall, from and after the redemption or from and after the deposit of the redemption money with the clerk, be null and void.

(5) In the event of failure to redeem within the period provided for redemption, the owner or any other party in interest shall be barred forever of all his right, title and interest in and to the parcel of real estate described in the petition.

(6) Upon redemption, as permitted by this section, the person redeeming shall be entitled to a certificate of redemption from the collector describing the property in the same manner as it is described in the petition and the collector shall thereupon note on his records the word "redeemed" and the date of the payment opposite the description of the parcel of real estate.

Section 35. KRS 96.820 is amended to read as follows:

(1) For the purposes of this section, unless the context requires otherwise:

(a) "Taxing jurisdiction" shall mean each county, each school district, each municipality, and each other special taxing district located within the state.

(b) "State" shall mean the Commonwealth of Kentucky.

(c) "Tax equivalent" shall mean the amount in lieu of taxes computed according to this section which is required to be paid by each board to the state and to each taxing jurisdiction in which the board operates and required by subsection (11) of KRS 96.570 to be included in resale rates.

(d) "Tax year" shall mean the twelve (12) calendar-month period ending with December 31.

(e) "Current tax rate" shall mean the actual levied ad valorem property tax rate of the state and of each taxing jurisdiction which is applicable to all property of the same class as a board's property subject to taxation for the tax year involved.

(f) "Book value of property" or "book value of property owned by the board" shall mean the sum of:

1. The original cost (less reasonable depreciation or retirement reserve) of a board's electric plant in service on December 31 of the immediately preceding calendar year located within the state, used and held for use in the transmission, distribution, and generation of electric energy, and

2. The cost of the material and supplies owned by a board on December 31 of the immediately preceding calendar year. For the purpose of this definition, "electric plant in service" shall mean those items included in the "electric plant in service" account prescribed by the Federal Energy Regulatory Commission uniform system of accounts for electric utilities, and "material and supplies" shall mean those items included in the accounts grouped under the heading "material and supplies" in the said system of accounts.

(g) "Adjusted book value of property" or "adjusted book value of property owned by the board" shall mean the book value of property owned by the board excluding manufacturing machinery as interpreted by the ***Department of***

Revenue[~~ Cabinet~~] for franchise tax determination purposes.

(h) The "adjustment factor" shall be one hundred twenty-five percent (125%) for the tax year 1970. For each tax year thereafter, it shall be the duty of the ***Department of*** Revenue[~~ Cabinet~~] to compute the adjustment factor for that tax year as follows: For each five (5) percentage points or major fraction thereof by which the adjustment ratio for electric utility property for the immediately preceding tax year exceeded or was less than one hundred sixteen percent (116%), five (5) percentage points shall be added to or subtracted from one hundred twenty-five percent (125%). For the purposes of this computation, "adjustment ratio for electric utility property" shall mean the ratio of total assessed value to total property value for all public service corporations distributing electric energy to more than fifty thousand (50,000) retail electric customers within the state. "Total assessed value" shall mean the total actual cash value assigned by the ***Department of*** Revenue[~~ Cabinet~~] for ad valorem property tax purposes to the property of such corporations located within the state (properly adjusted for property under construction). "Total property value" shall mean the sum of:

1. The depreciated original cost of the total utility plant in service of such corporations within the state, and

2. The book value of material and supplies of such corporations located within the state, both as derived from published reports of the Federal Energy Regulatory Commission, or in the absence thereof, from information provided to the ***Department of*** Revenue[~~ Cabinet~~] by such corporations.

(i) "Electric operations" shall mean all activities associated with the establishment, development, administration, and operation of any electric system and the supplying of electric energy and associated services to the public, including without limitation the generation, purchase, sale, and resale of electric energy and the purchase, use, and consumption thereof by ultimate consumers.

(2) It shall be the duty of each board, on or before April 30, to certify to the ***Department of*** Revenue[~~ Cabinet~~] the book value of property owned by the board and the adjusted book value of property owned by the board and located within the state and within each taxing jurisdiction in which the board operates. A copy of the certification shall also be sent by the board to each such taxing jurisdiction. The book value of property and adjusted book value of property shall be determined, and the books and records of the board shall be kept in accordance with standard accounting practices, and the books and records of each board shall be subject to inspection by the ***Department of*** Revenue[~~ Cabinet~~] and by representatives of the affected taxing jurisdictions and to adjustment by the ***Department of*** Revenue[~~ Cabinet~~] if found not to comply with the provisions of this section. Upon the receipt of the required certification from a board, the ***Department of*** Revenue[~~ Cabinet~~] shall make any inspection and adjustment, hereinabove authorized, as it deems necessary, and no earlier than September 1 of each year the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the board and to the county clerk of each county in which the board operates the book value of property owned by the board and the adjusted book value of property owned by the board, located within each taxing jurisdiction in which the board operates and within the state. At the same time, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the board and to the county clerk the adjustment factor for the tax year. The county clerk shall promptly certify the book value of property, the adjusted book value of property, and the adjustment factor certified by the ***Department of*** Revenue[~~ Cabinet~~], to the respective taxing jurisdiction in which the board operates.

(3) (a) Each board shall pay for each tax year, beginning with the tax year 1970, to the state and to each taxing jurisdiction in which the board operates, a tax equivalent from the revenues derived from the board's electric operations for that tax year, computed according to this subsection.

(b) The tax equivalent for each tax year payable to the state shall be the total of:

1. The book value of the property owned by the board within the state, multiplied by the adjustment factor, multiplied by the current tax rate of the state, less thirty cents ($0.30), plus

2. The state's portion of the amount payable under paragraph (d) of this subsection.

(c) The tax equivalent for each tax year payable to each taxing jurisdiction in which the board operates shall be the total of:

1. The adjusted book value of property owned by the board within the taxing jurisdiction, multiplied by the adjustment factor, multiplied by the current tax rate of the taxing jurisdiction; provided, however, for the purpose of this calculation the tax rate for school districts shall be increased by thirty cents ($0.30), plus

2. The taxing jurisdiction's portion of the amount payable under paragraph (d) of this subsection.

(d) For purposes of this subsection, "amount payable" shall mean four-tenths of one percent (0.4%) of the book value of property owned by the board located within the state. The state shall be paid the same proportion of the amount payable as the payment to the state under subparagraph 1. of paragraph (b) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Each taxing jurisdiction in which the board operates shall be paid the same proportion of the amount payable as the payment to the taxing jurisdiction under subparagraph 1. of paragraph (c) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Under the regulations the ***Department of*** Revenue[~~ Cabinet~~] may prescribe, upon the board's receipt from the state and taxing jurisdictions of notice of the amount due under subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection, the board shall compute the portion of the amount payable which is due the state and each taxing jurisdiction in which the board operates.

(e) Payment of the tax equivalent under this section for each tax year shall be made by each board to the state within thirty (30) days after receipt by the board of the certification from the ***Department of*** Revenue~~[Cabinet]~~ required by subsection (2) of this section and shall be made directly to each taxing jurisdiction in which the board operates within thirty (30) days from the date of the certifications by the county clerk required by subsection (2) of this section. The state and each taxing jurisdiction in which a board operates shall have a superior lien upon the proceeds of the sale of electric energy by that board for the amounts required by this section to be paid to it.

(4) Except as hereinafter provided, the tax equivalents computed under this section shall be in lieu of all state, municipal, county, school district, special taxing district, other taxing district, and other state and local taxes or charges on the tangible and intangible property, the income, franchises, rights, and resources of every kind and description of any municipal electric system operating under KRS 96.550 to 96.900 and on the electric operations of any board established pursuant thereto, and the tax equivalent for any tax year computed and payable under this section to the state or to any taxing jurisdiction in which any board operates shall be reduced by the aggregate amount of any tax or charge within the meaning of this sentence which is imposed by the state, or by any taxing jurisdiction in which a board operates, on the board, the electric system, or the board's electric operations. Provided, however, that if any school district in which property of a board is located has elected, or does hereafter elect, to apply the utility gross receipts license tax for schools to all utility services as provided by KRS 160.613 through KRS 160.617, or as may hereafter be provided by other statutes, the amount of such utility gross receipts license tax shall not reduce, or in any manner affect, the amount payable to any such board or boards under the provisions of this section. It is the intent and purpose of this provision to eliminate all sums received by any such board or boards by reason of the utility gross receipts license tax from any computation of the amount payable under this section to any such board or boards, irrespective of the manner in which that payment is computed, so that, in no event, shall any sum received by any school district by reason of the utility gross receipts license tax reduce, directly or indirectly, the amount payable to such district under this chapter. Provided, further, that if the state shall levy a statewide retail sales or use tax on electric power or energy, collected by retailers of the energy from the vendees or users thereof, and imposed at the same rate or rates as are generally applicable to the sale or use of personal property or services, including natural or artificial gas, fuel oil, and coal as well as electric power or energy, the retail sales or use tax shall not be deemed to be a tax or charge within the meaning of the first sentence of this subsection, and the tax equivalent payable for the tax year to the state under this section shall not be reduced on account of such retail sales or use tax.

(5) (a) Notwithstanding subsection (3) of this section, until the first tax year in which the total of:

1. The tax equivalent payable to the state, or to any taxing jurisdiction in which the board operates, computed under subsection (3) of this section, plus

2. The additional amounts permitted to be paid to the state or taxing jurisdiction without deduction under the second and third sentences of subsection (4) of this section, exceeds the minimum payment to the state or taxing jurisdiction specified in paragraph (b) of this subsection, the tax equivalent for each tax year payable to the state or taxing jurisdiction shall be an amount equal to the minimum payment computed under paragraph (b) of this subsection.

(b) For purposes of this subsection, the minimum payment to the state or to any taxing jurisdiction in which the board operates shall mean an amount equal to the total of:

1. The largest actual payment made by the board pursuant to this section to the state or to the taxing jurisdiction for any of the tax years 1964, 1965, or 1966, plus

2. The state's or taxing jurisdiction's pro rata share of an amount equal to four-tenths of one percent (0.4%) of the increase since July 1, 1964, in the book value of property owned by the board within the state. For the purposes of this paragraph "pro rata share" shall mean the same proportion of the amount computed under this subparagraph as the largest actual payment in lieu of taxes made by the board to the state or taxing jurisdiction for the applicable tax year under subparagraph 1. of this paragraph represents of the total amount of the largest actual payments in lieu of taxes made by the board to the state and to all taxing jurisdictions in which it operated for any of the applicable tax years.

(c) The provisions of paragraph (e) of subsection (3) of this section shall apply to all payments required under this subsection.

(d) This subsection shall not be applicable for the first tax year specified in paragraph (a) of this subsection or for any tax year thereafter, except however, that tax year 1977 shall not be deemed as the "first tax year" as specified in paragraph (a) and this subsection shall continue to apply in such cases.

Section 36. KRS 96.895 is amended to read as follows:

(1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates, provided, however, each public school district for the purposes of this calculation shall have their tax rate increased by thirty cents ($0.30).

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennessee Valley Authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The ***Department of*** Revenue[~~ Cabinet~~] shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

(a) Were in existence when title to the land on which they are situated was acquired by the United States; or

(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the ***Department of*** Revenue[~~ Cabinet~~] for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after September 30, 1985, from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended.

Section 37. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS Chapter 96A with which to acquire, operate, and preserve mass transportation facilities. A "mass transportation program" may also include a method for the public body or public bodies to finance principal and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation-related facilities to promote the movement of vehicles and people. Urban-county governments which initiate a "mass transportation program" may include in this program the improvement of existing roads and the construction of new roads.

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the Constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) (a) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by the voted levy of a sales tax upon all retailers at a rate not to exceed one-half of one percent (0.5%) of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies, provided, however, that public transit sales tax shall not be levied on those retail sales which are

exempted from the state sales tax by KRS Chapter 139 on June 19, 1976, or hereafter exempted.

(b) Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky ***Department of*** Revenue[~~ Cabinet~~].

(5) The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax.

(6) Notwithstanding any other provision contrary hereto, a mass transportation program financed by a public body or public bodies from said sales tax shall be restricted by the following order of priorities, to wit:

(a) First, the annual payment of principal, interest, and sinking fund requirements on any general obligation bonds issued pursuant to KRS 96A.120;

(b) Second, appropriations to the transit authority to provide local matching funds for any available federal or state capital, operating, or planning and demonstration grant projects in accordance with the annual approved budget; and

(c) Third, any excess funds in the control of each public body receiving said tax shall be transferred to the general fund of each such public body for public transportation and traffic improvement projects at any location within a city or county, in any manner which said public body or public bodies determine will improve transportation, road or traffic conditions, or in general will promote the movement of people and vehicles.

Section 38. KRS 99.605 is amended to read as follows:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days before commencing restoration, repair, rehabilitation, or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation, or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application. The administering agency shall issue a moratorium certificate only after completion of the project. The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements.

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property.

Section 39. KRS 131.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner" means the commissioner of the Department of Revenue***[~~Secretary" means the secretary of revenue~~].

(2) "***Department" means the Department of Revenue within the Finance and Administration Cabinet***[~~Cabinet" means the Revenue Cabinet~~].

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person.

(4) "Taxpayer" means any person required or permitted by law or administrative regulation to perform any act subject to the administrative jurisdiction of the ***department***[~~cabinet~~] including, but not limited to, the following:

(a) File a report, return, statement, certification, claim, estimate, declaration, form, or other document;

(b) Furnish any information;

(c) Withhold, collect, or pay any tax, installment, estimate, or other funds;

(d) Secure any license, permit, or other authorization to conduct a business or exercise any privilege, right, or responsibility.

(5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System.

(6) "Tax interest rate" means the interest rate determined under KRS 131.183.

(7) "Tax" includes any assessment or license fee administered by the ***department***[~~cabinet~~]; however, it shall not include moneys withheld or collected by the ***department***[~~cabinet~~] pursuant to KRS 131.560 or 160.627.

(8) "Return" or "report" means any properly completed and, if required, signed form, statement, certification, claim estimate, declaration, or other document permitted or required to be submitted or filed with the ***department***[~~cabinet~~], including returns and reports or composites thereof which are permitted or required to be electronically transmitted.

(9) "Reasonable cause" means an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the ***department***[~~cabinet~~] pursuant to law or administrative regulation.

(10) "Fraud" means intentional or reckless disregard for the law, administrative regulations, or established policies of the ***department***[~~cabinet~~] to evade the filing of any return, report, or the payment of any monies due to the ***department***[~~cabinet~~] pursuant to law or administrative regulation.

Section 40. KRS 131.020 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall be organized into the following functional units:

(a) [~~Office of the Secretary. The Office of the Secretary shall include the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services, principal assistants and other personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;~~

~~(b)~~]Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;

(b)[~~(c)~~]Office of Taxpayer Ombudsman. The Office of Taxpayer Ombudsman shall be headed by a taxpayer ombudsman as established by KRS 131.051(1). The functions and duties of the office shall consist of those established by KRS 131.071;

(c)[~~(d)~~]***Office***[~~Department~~] of Law. The ***Office***[~~Department~~] of Law shall be headed by ***an executive director***[~~a commissioner~~]. The functions and duties of the ***office***[~~department~~] shall include establishing ***Department of*** Revenue[~~ Cabinet~~] tax policies, providing information to the public, conducting tax research, collecting delinquent taxes, conducting conferences, administering taxpayer protests, issuing final rulings, administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation, and representing the ***department***[~~cabinet~~] in legal and administrative actions. The ***Office***[~~Department~~] of Law shall consist of the divisions of legal services, protest resolution, tax policy, collections, and research;

(d)[~~(e)~~]***Office***[~~Department~~] of Property Valuation. The ***Office***[~~Department~~] of Property Valuation shall be headed by ***an executive director***[~~a commissioner~~]. The functions and duties of the ***office***[~~department~~] shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering tangible and intangible personal property taxes, and collecting delinquent taxes. The ***Office***[~~Department~~] of Property Valuation shall consist of the Divisions of Local Valuation, State Valuation, and Technical Support;

(e)[~~(f)~~] ***Office***[~~Department~~] of Tax Administration. The ***Office***[~~Department~~] of Tax Administration shall be headed by ***an executive director***[~~a commissioner~~]. The functions and duties of the ***office***[~~department~~] shall include recordkeeping, conducting audits, reviewing audits, rendering taxpayer assistance, and collecting delinquent taxes. The ***Office***[~~Department~~] of Tax Administration shall consist of the Divisions of Field Operations, Revenue Operations, and Compliance and Taxpayer Assistance; and

(f)[~~(g)~~] ***Office***[~~Department~~] of Information Technology. The ***Office***[~~Department~~] of Information Technology shall be headed by ***an executive director***[~~a commissioner~~]. The functions and duties of the ***office***[~~department~~] shall include the development and maintenance of technology and information management systems in support of all units of the ***Department of Revenue***[~~cabinet~~]. The ***Office***[~~Department~~] of Information Technology shall consist of the Division of Systems Planning and Development and the Division of Technology Infrastructure Support.

(2) The functions and duties of the ***department***[~~cabinet~~] shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the ***department***[~~cabinet~~] shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the ***department***[~~cabinet~~], and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) Except as provided in KRS 131.190(4), the ***department***[~~cabinet~~] shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office

to perform the tax administration function established in KRS 42.410.

Section 41. KRS 131.030 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the ***Department of*** Revenue[~~ Cabinet~~] may commit administration of certain taxes.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The ***Department of*** Revenue[~~ Cabinet~~] is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

Section 42. KRS 131.061 is amended to read as follows:

In addition to all other rights or privileges afforded Kentucky taxpayers, and notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the provisions of KRS 131.041 to 131.081 shall apply with regard to all taxes administered by the ***Department of*** Revenue[~~ Cabinet~~].

Section 43. KRS 131.071 is amended to read as follows:

(1) There is hereby created and established within the ***Department of*** Revenue[~~ Cabinet~~] an Office of Taxpayer Ombudsman to be staffed with a taxpayers' rights advocate and such other support personnel as may be deemed necessary to carry out the spirit and the specific purposes of KRS 131.041 to 131.081. For administrative and budgetary purposes, the Office of Taxpayer Ombudsman shall be attached to the Office of the ***commissioner of the Department of*** [~~Secretary of~~] Revenue.

(2) The taxpayer ombudsman shall be a person with either no less than five (5) years of tax administration experience at a supervisory or management level or no less than ten (10) years of tax administration experience with at least five (5) years of experience working directly in the Office of Taxpayer Ombudsman. The taxpayer ombudsman shall possess a broad general knowledge of the tax laws, regulations, systems, and procedures administered or utilized by the ***department***[~~cabinet~~].

(3) The taxpayer ombudsman shall:

(a) Coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or his representative.

(b) Provide recommendations to the ***department***[~~cabinet~~] for new or revised informational publications and recommend taxpayer and ***department***[~~cabinet~~] employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance.

(c) Provide recommendations to the ***department***[~~cabinet~~] for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to promote better understanding and voluntary compliance by taxpayers.

(d) At least annually, on or before October 1, prepare and submit a report to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] summarizing the activities of the Office of Taxpayer Ombudsman during the immediately preceding fiscal year describing any recommendations made pursuant to paragraphs (b) and (c) of this subsection, including the progress in implementing such recommendations, and providing such other information as the taxpayer ombudsman deems appropriate relating to the rights of Kentucky taxpayers.

Section 44. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the ***Department of*** Revenue[~~ Cabinet~~].

(1) The ***department***[~~cabinet~~] shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and ***department***[~~cabinet~~] employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The ***department***[~~cabinet~~] shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the ***department***[~~cabinet~~]. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the ***department***[~~cabinet~~] distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the ***department***[~~cabinet~~]. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.

(4) The ***department***[~~cabinet~~] shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of this ***department***[~~cabinet~~] recording or a transcript as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the ***department***[~~cabinet~~] is due to the taxpayer's reasonable reliance on written advice from the ***department***[~~cabinet~~], the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the ***department***[~~cabinet~~] and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the ***department***[~~cabinet~~] did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the ***department's***[~~cabinet's~~] earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the ***department***[~~cabinet~~] by the Auditor of Public Accounts relating to the ***department's***[~~cabinet's~~] compliance with the provisions of KRS 131.041 to 131.081.

(8) The ***department***[~~cabinet~~] shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the ***department***[~~cabinet~~] of the amounts owed. The ***department***[~~cabinet~~] may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The ***department***[~~cabinet~~] shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the ***department***[~~cabinet~~] has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The ***department***[~~cabinet~~] shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving ***Department of*** Revenue[~~ Cabinet~~] personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the ***department***[~~cabinet~~] in writing and provides a copy of the extension at the time and in the manner which the ***department***[~~cabinet~~] may require.

(12) The ***department***[~~cabinet~~] shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the ***department***[~~cabinet~~], provided the erroneous lien or levy was caused by ***department***[~~cabinet~~] error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the ***department***[~~cabinet~~] and provided information or documentation sufficient to establish his or her position. When the ***department***[~~cabinet~~] releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The ***department***[~~cabinet~~] shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by ***department***[~~cabinet~~] employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the ***department***[~~cabinet~~]. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the ***department***[~~cabinet~~] shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the ***department***[~~cabinet~~] to any person or be intentionally and without authorization inspected by any***:***

(a) Present or former secretary ***of the Finance and Administration Cabinet;***[~~or employee~~]

(b) Former secretary or employee of the Revenue Cabinet***;***

(c) Present or former commissioner or employee of the Department of Revenue;

(d) Present or former member of a county board of assessment appeals***;***[~~,~~]

(e) ***Present or former*** property valuation administrator or employee***;***[~~,~~] or[~~ any~~]

(f) Other person.

Section 45. KRS 131.110 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the ***department***[~~cabinet~~] within forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the ***department***[~~cabinet~~] may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the ***department***[~~cabinet~~]. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the ***department***[~~cabinet~~] shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the ***department***[~~cabinet~~], generally state the issues in controversy, the ***department's***[~~cabinet's~~] position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the ***department***[~~cabinet~~] shall issue such ruling within thirty (30) days from the date the request is received by the ***department***[~~cabinet~~].

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

Section 46. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the ***Department of*** Revenue[~~ Cabinet~~]:

(1) The ***department***[~~cabinet~~] may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The ***department***[~~cabinet~~], by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The ***department***[~~cabinet~~] may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the ***department***[~~cabinet~~].

(3) The ***department***[~~cabinet~~] shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The ***department***[~~cabinet~~] shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the ***department***[~~cabinet~~] and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a ***Department of*** Revenue[~~ Cabinet~~] attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the ***department***[~~cabinet~~] or at the request of the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The ***department***[~~cabinet~~] may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the ***department***[~~cabinet~~] for administration.

(8) The ***department***[~~cabinet~~] may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the ***commissioner***[~~secretary~~] may deem wise.

(9) The ***department***[~~cabinet~~] may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The ***department***[~~cabinet~~] may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The ***department***[~~cabinet~~] may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any liquidated debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the ***department***[~~cabinet~~] shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

Section 47. KRS 131.135 is amended to read as follows:

(1) Each employer subject to KRS Chapter 342 shall file annually with the ***Department of*** Revenue[~~ Cabinet~~], in accordance with administrative regulations, a report providing the policy number and the name and address of the employer's workers' compensation insurance carrier.

(2) The report may be made available to other state agencies notwithstanding the confidentiality provisions of KRS 131.190.

Section 48. KRS 131.140 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall requisition the Finance and Administration Cabinet to furnish to local officials an adequate supply of forms for listing property for taxation and other forms and blanks the state is required by law to provide. The books and records prescribed for use by property valuation administrators, county clerks, sheriffs and other county tax collectors shall be designed to promote economical operation, adequate control, availability of useful information, and safekeeping. The forms prescribed for listing intangible property shall be designed to secure a detailed list to provide convenient checking of valuations with available sources of information, and to safeguard the confidential character of the intangible property assessment.

(2) The ***department***[~~cabinet~~] may confer with, advise and direct local officials respecting their duties relating to taxation, and shall supervise the officials in the performance of those duties. The ***department***[~~cabinet~~] shall provide to the property valuation administrators up-to-date appraisal manuals outlining uniform procedures for appraising all types of real and personal property assessed by them. The property valuation administrators shall follow the uniform procedures for appraising property outlined in these manuals. The ***department***[~~cabinet~~] shall maintain and make accessible to all property valuation administrators a statewide commercial real property comparative sales file. The ***department***[~~cabinet~~], by authorized agents, may visit local governmental units and officers for investigational purposes, when necessary.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct a biennial performance audit of each property valuation administrator's office. This audit shall include, but shall not be limited to, an inspection of maps and records, an appraisal study of real property, and an evaluation of the overall effectiveness of the office. Each property valuation administrator's office shall provide the ***department***[~~cabinet~~] with access to its files, maps and records during the audit. The ***department***[~~cabinet~~] shall prepare a report on assessment equity and quality for each county based on the performance audit, and shall provide a copy to the Legislative Research Commission.

(4) The ***department***[~~cabinet~~] shall arrange for an annual conference of the property valuation administrators, or the county officers whose duty it is to assess property for taxation, to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith. The conference shall continue not more than five (5) days. The officers shall attend and take part in the conference, unless prevented by illness or other reason satisfactory to the ***commissioner***[~~secretary~~]. Any officer willfully failing to attend the conference may be removed from office by the Circuit Court of the county where he was elected. If the officer participates in all sessions of the conference, one-half (1/2) of his actual and necessary expenses in attending the conference shall be paid by the state, and the other half shall be paid by the county from which he attends. Each officer shall prepare an itemized statement showing his actual and necessary expenses, and if it is found regular and supported by proper receipts it shall be approved by the ***department***[~~cabinet~~] before payment.

Section 49. KRS 131.150 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] reasonably believes that any taxpayer has withdrawn from the state or concealed his assets or a material part thereof so as to hinder or evade the assessment or collection of taxes, or has desisted from any taxable activity in the state, or has become domiciled elsewhere, or has departed from this state with fraudulent intent to hinder or evade the assessment or collection of taxes, or has done any other act tending to render partly or wholly

ineffective proceedings to assess or collect any such taxes, or contemplates doing any of these acts in the immediate future, or that any tax claim for any other reason is being endangered, such tax liability shall become due and payable immediately upon assessment or determination of the amount of taxes due, as authorized in this section.

(2) Under any of the circumstances set out in subsection (1) of this section, the ***department***[~~cabinet~~] may make a tentative assessment or determination of the taxes due, and may proceed immediately to bring garnishment, attachment or any other legal proceedings to collect the taxes so assessed or determined to be due. Notwithstanding the provisions of KRS 131.180(1), if the tax so assessed is due to the failure of the taxpayer to file a required tax return a minimum penalty of one hundred dollars ($100) shall be assessed unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund. No bond shall be required of the ***department***[~~cabinet~~] in such proceedings. The taxpayer may stay legal proceedings by filing a bond in an amount sufficient in the opinion of the cabinet to cover the taxes, penalties, interest, and costs. If no legal proceedings have been instituted, the ***department***[~~cabinet~~] may require a bond adequate to cover all taxes, penalties, and interest. On making bond, exception to the assessment or determination of tax liability may be filed in the same manner and time as provided in KRS 131.110. If no exceptions are filed to the tentative assessment or determination, it shall become final.

(3) The ***department***[~~cabinet~~] may require any such taxpayer to file with it forthwith the reports required by law or regulation, or any additional reports or other information necessary to assess the property or determine the amount of tax due.

(4) If the ***department***[~~cabinet~~] fails to exercise the authority conferred by this section, such taxpayer shall report and pay all taxes due as otherwise provided by law.

Section 50. KRS 131.170 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may, when extension is not otherwise provided for, grant a reasonable extension of time for filing reports or returns whenever, in its judgment, good cause therefor exists. The ***department***[~~cabinet~~] shall keep a record of such extensions. Except where a taxpayer is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year. If any extension operates to postpone a tax payment, interest at the tax interest rate as defined in KRS 131.010(6) shall be collected. The ***department***[~~cabinet~~] may condition the extension upon a bond sufficient to cover any tax and penalty determined to be due. The ***department***[~~cabinet~~] may, on request, permit a person to file a tax return or report or pay tax on a date other than that prescribed by statute, or to change the fiscal period covered by such return or report, if the variation will not ultimately effect a reduction in revenue.

Section 51. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the ***Department of*** Revenue[~~ Cabinet~~], the sheriff or the county clerk, the ***commissioner***[~~secretary~~] shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the ***department***[~~cabinet~~] that failure to file or pay timely is due to reasonable cause.

Section 52. KRS 131.181 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license to mine coal in Kentucky under KRS 351.175, is a "delinquent taxpayer" as defined in subsection (3) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall, after giving notice as provided in subsection (4) of this section, submit the name of the taxpayer to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175.

(2) If it is determined that a person who is an agent, contract miner, or delegate of a delinquent taxpayer as defined in subsection (3) holds a license to mine coal for the delinquent taxpayer in Kentucky under KRS 351.175, the ***Department of*** Revenue[~~ Cabinet~~] shall, after giving notice as provided in subsection (4) of this section, submit the name of the agent, contract miner, or delegate to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175 to mine coal for the delinquent taxpayer.

(3) Any of the following situations is sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the mining, transportation, or processing of coal, for which all protest and appeal rights granted by law have expired and has been contacted by the ***department***[~~cabinet~~] concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the ***department***[~~cabinet~~].

(b) When a taxpayer has not filed a required tax return as of thirty (30) days after the due date or after the extended due date, and has been contacted by the ***department***[~~cabinet~~] concerning the delinquent return. This applies only to tax returns required as the result of the taxpayer's involvement in the mining, transportation, or processing of coal.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS 351.175, held a similar position in a business whose license was revoked as a "delinquent taxpayer", and the tax liability remains unpaid.

(4) At least twenty (20) days in advance of submitting a taxpayer's name to the Department of Mines and Minerals as provided in subsection (1) or (2) of this section, the ***department***[~~cabinet~~] shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance which must be satisfied in order to prevent the

submission of his name to the Department of Mines and Minerals as a "delinquent taxpayer."

(5) If it is determined that an applicant for a license to mine coal under the provisions of KRS 351.175 is a delinquent taxpayer as defined in subsection (3) of this section, or is an agent, contract miner, or delegate of a delinquent taxpayer, the Department of Mines and Minerals shall refuse a mine license to the applicant.

Section 53. KRS 131.190 is amended to read as follows:

(1) No ***person, including any:***

(a) Present or former secretary ***of the Finance and Administration Cabinet;***[~~or employee~~]

(b) Former secretary or employee of the Revenue Cabinet***;***[~~,~~]

(c) Present or former commissioner or employee of the Department of Revenue;

(d) Present or former member of a county board of assessment appeals***;***[~~,~~]

(e) Present or former property valuation administrator or employee***;***[~~,~~] or[~~ any~~]

(f) Other person***;***[~~,~~]

shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the ***department***[~~cabinet~~] or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the ***commissioner***[~~secretary~~] or any employee of the ***department***[~~Revenue Cabinet~~] from testifying in any court, or from introducing as evidence returns or reports filed with the ***department***[~~cabinet~~], in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The ***commissioner***[~~secretary~~] or the ***commissioner's***[~~secretary's~~] designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The ***commissioner***[~~secretary~~] shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the ***department***[~~cabinet~~] shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the ***department***[~~Revenue Cabinet~~] under the gasoline excise tax law may be made public by the ***department***[~~cabinet~~].

(4) ***Access to an inspection of information received from the Internal Revenue Service is for Department of Revenue use only, and is restricted to tax administration purposes.*** Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present ***secretary of the Finance and Administration Cabinet, commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], or any other person.

(5) Statistics of crude oil as reported to the ***department***[~~Revenue Cabinet~~] under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the ***department***[~~Revenue Cabinet~~] under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the ***department***[~~cabinet~~] by release to the Department of Mines and Minerals.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the ***department***[~~cabinet~~] may make public or divulge only those portions of mine maps submitted by taxpayers to the ***department***[~~cabinet~~] pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 54. KRS 131.191 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall not enter into any contract with the Department of Corrections, the United States Government, any local government, or any private contractor operating a correctional institution on behalf of the Department of Corrections, the United States Government, or any local government for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 55. KRS 131.192 is amended to read as follows:

Whenever it becomes necessary within the discretion of the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] to photostat, duplicate, publish or supply for the use and benefit of persons or agencies, other than agencies of state government, information contained in official records of the ***Department of*** Revenue[~~ Cabinet~~], whose contents are not confidential according to law, the ***Department of*** Revenue[~~ Cabinet~~] is hereby authorized to photostat, duplicate or publish the said information and supply the same to the requesting person or agency. For such services the ***department***[~~cabinet~~] may charge a fee which will be adequate to cover the expenses of photostating, duplicating or publishing such information and any expense incidental to supplying the same.

Section 56. KRS 131.194 is amended to read as follows:

All money received by the ***Department of*** Revenue[~~ Cabinet~~], for supplying to persons or agencies other than state agencies information which is contained in the official files of the ***department***[~~cabinet~~], shall be promptly deposited with the State Treasurer in the same manner as provided by law for other deposits. The amount of money so deposited shall be treated as a reimbursement to the appropriation of the ***department***[~~Revenue Cabinet~~] from which the disbursements were made for expenses incurred in performing the services authorized by KRS 131.192.

Section 57. KRS 131.205 is amended to read as follows:

(1) Any field representative of the ***Department of*** Revenue[~~ Cabinet~~] who is authorized to collect taxes or money due the Commonwealth may deposit to his special account as field representative of the ***department***[~~cabinet~~] any money so collected in a state or national bank in this Commonwealth.

(2) He shall within forty-eight (48) hours after making such deposits draw a check or checks payable to the State Treasurer for the full amount of the deposit and mail same to the ***department***[~~cabinet~~] or transmit same in a manner approved by the ***department***[~~cabinet~~]. Nothing in this section shall be construed as authorizing any field representative of the ***department***[~~cabinet~~] to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(3) Deposits shall be made in such banks as the ***department***[~~cabinet~~] may by regulation designate, and subject to such further conditions as the ***department***[~~cabinet~~] may prescribe. Any reasonable service charges made by the bank may be paid by the ***department***[~~cabinet~~] from its appropriation as other claims against it are paid.

Section 58. KRS 131.340 is amended to read as follows:

(1) The Kentucky Board of Tax Appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation. Administrative hearings before the Kentucky Board of Tax Appeals shall be de novo and conducted in accordance with KRS Chapter 13B.

(2) Any state or county agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the board shall mail by certified mail notice of its ruling, order, or determination within three (3) working days from the date of the decision.

(3) Any party, including the Attorney General, on behalf of the Commonwealth, aggrieved by any ruling, order, or determination of any state or county agency charged with the administration of any taxing or licensing measure, may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.

(4) If the ***Department of*** Revenue[~~ Cabinet~~] is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the ***department***[~~cabinet~~] and prosecutes an appeal to the Kentucky Board of Tax Appeals as authorized in subsection (3) of this section, the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] shall, within twenty (20) days, certify in writing to the Kentucky Board of Tax Appeals the assessment recommended.

(5) The Kentucky Board of Tax Appeals shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 59. KRS 131.355 is amended to read as follows:

(1) All proceedings before the board shall be officially reported and all records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the board include information provided to the ***Department of*** Revenue[~~ Cabinet~~] by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.

(2) All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, but one (1) member or a hearing officer may be authorized to hear an individual appeal. The final order in any appeal heard by a single member or a hearing officer

shall be made and entered by a majority of the board.

Section 60. KRS 131.400 is amended to read as follows:

(1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The ***Department of*** Revenue~~[Cabinet]~~ shall develop and administer a tax amnesty program as provided in KRS 131.410 to 131.445.

(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:

(a) ***"Department" means the Department of Revenue***~~[Cabinet" means the Revenue Cabinet]~~.

(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, limited liability company, limited liability partnership, or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

(c) "Account receivable" means an amount of state tax, penalty, fee, or interest which has been recorded as due and entered in the account records of the ***department***~~[cabinet]~~, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state, or local.

(d) "Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the ***department***~~[cabinet]~~ during the fiscal year ending June 30, 2003, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties, fees, or interest subject to the administrative jurisdiction of the ***department***~~[cabinet]~~, with the exceptions of ad valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials. The program shall apply to tax liabilities for taxable periods ending or transactions occurring after December 1, 1987, but prior to December 1, 2001. Amnesty tax return forms shall be in a form prescribed by the ***department***~~[cabinet]~~.

Section 61. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the ***Department of*** Revenue~~[Cabinet]~~ as provided by the laws of the Commonwealth and if the person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if the person has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing, the ***commissioner of the Department of Revenue***~~[secretary of revenue]~~ or his delegate may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for thirty (30) days after the demand, the ***commissioner***~~[secretary]~~ or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to the person or on which there is a lien provided by KRS 134.420, except the property that is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest, and cost of the levy.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the ***commissioner***~~[secretary]~~ or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The ***commissioner***~~[secretary]~~ or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. The notice shall be published once each week for three (3) successive weeks. In addition, the notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the ***commissioner***~~[secretary]~~ or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest, and cost of the levy, the whole of the property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the ***commissioner***~~[secretary]~~.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the ***commissioner***~~[secretary]~~ or his delegate may offer the items for sale

separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The ***commissioner***[~~secretary~~] or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of the payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the ***commissioner***[~~secretary~~] or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the ***commissioner***[~~secretary~~], the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. If readvertisement and sale occur, any new purchaser shall receive the property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.

(8) If the ***commissioner***[~~secretary~~] or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, he shall appraise the value of the property and, if the owner of the property can be readily found, the ***commissioner***[~~secretary~~] or his delegate shall give him notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner pays to the ***commissioner***[~~secretary~~] or his delegate an amount equal to the appraised value, or gives bond in the form, with the sureties, and in the amount as the ***commissioner***[~~secretary~~] or his delegate determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this subsection, the ***commissioner***[~~secretary~~] or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than ten (10) years after the assessment becomes final.

(10) The term "levy" as used in this section shall include the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the ***commissioner***[~~secretary~~] or his delegate may levy upon property or rights to property, he may seize and sell the property or rights whether real, personal, tangible or intangible.

(11) Notwithstanding the provisions of KRS Chapters 45, 45A, and 56, the ***department***[~~cabinet~~] may take all necessary steps to provide for the protection, maintenance, or transportation of all property seized by the ***department***[~~cabinet~~] pursuant to the provisions of this section, including, but not limited to, negotiating directly for the procurement of contractual services, including professionals, supplies, materials, equipment, or the leasing of real and personal property. Every effort shall be made to effect a competitively established price for purchases made pursuant to this section. The ***department***[~~cabinet~~] shall report any procurements of contractual services, supplies, materials, equipment, or the leasing of real and personal property, to the secretary of the Finance and Administration Cabinet within sixty (60) days of the transaction. Nothing in this section shall preclude the ***department***[~~cabinet~~] from complying with the provisions of KRS Chapters 45 and 56 relating to the requirements to report the purchase or lease of real property or equipment to the Capital Projects and Bond Oversight Committee.

Section 62. KRS 131.550 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] reasonably believes that any taxpayer has divested himself by gift, conveyance, assignment, transfer of, or charge upon any property, whether real, personal, tangible or intangible, with the intent to hinder or evade the collection of any tax assessed or to be assessed by the ***department***[~~cabinet~~] or declared by the taxpayer on a return filed with the ***department***[~~cabinet~~], any transferee of such property may be assessed by the ***department***[~~Revenue Cabinet~~] an amount equal to the lesser of the amount of tax assessed against the transferor taxpayer or the fair market value of the property so transferred. However, no assessment shall be made pursuant to this section against a transferee who takes the property for full and valuable consideration in money or money's worth, unless it appears that such transferee had notice of the intent of the transferor taxpayer to hinder or evade the collection of any tax.

(2) Any assessment made by the ***department***[~~Revenue Cabinet~~] against a transferee pursuant to subsection (1) of this section is, except as provided in this section, subject to the same provisions and limitations as in the case of the taxes for which the liabilities were incurred.

(3) The period of limitation for assessment of any liability against a transferee pursuant to subsection (1) of this section shall be as follows:

(a) In the case of an initial transferee, within one (1) year after the expiration of the period of limitation for assessment against the transferor taxpayer; and

(b) In the case of the liability of a transferee of a transferee, within one (1) year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three (3) years after the expiration of the period of limitation for assessment against the initial transferor taxpayer.

(4) The notice of any assessment against a transferee made pursuant to subsection (1) of this section shall be either given to the transferee in person or sent by mail to such transferee's last known address.

Section 63. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the ***Department of*** Revenue[~~ Cabinet~~] shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 who owes overdue child support or is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the ***Department of*** Revenue[~~ Cabinet~~] from such taxpayer, the tax refund balance so withheld shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency having established a claim therefor. In the case of multiple state agency claims against the same tax refund, the agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the ***Department of*** Revenue[~~ Cabinet~~].

Section 64. KRS 131.565 is amended to read as follows:

(1) No state agency shall request the withholding of any individual income tax refund unless there is specific statutory provision for debtor appeal and hearing rights for that particular debt.

(2) State agencies desiring to establish claims against Kentucky individual income tax refunds shall notify the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] in writing of such intention by a date established by the ***Department of*** Revenue[~~ Cabinet~~] and, by the following December 31, shall furnish a list of all liquidated debts due the agency for which withholding is requested for individual income tax refunds due to be paid during the next calendar year. Such list shall be submitted in such form and contain such information as may be required by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency must send thirty (30) days prior written notification to the debtor of the intention to submit the claim to the ***Department of*** Revenue[~~ Cabinet~~] for setoff as provided in KRS 131.570.

(3) The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the ***Department of*** Revenue[~~ Cabinet~~].

(4) No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.

(5) Each state agency requesting the withholding of any individual income tax refund shall indemnify the ***Department of*** Revenue[~~ Cabinet~~] against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.

(6) Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the ***Department of*** Revenue[~~ Cabinet~~], reimburse the ***Department of*** Revenue[~~ Cabinet~~] for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.

(7) During the development and implementation phase and the first full year of operation of the program, the ***Department of*** Revenue[~~ Cabinet~~] may limit agency participation in the program to ensure orderly implementation of the system.

Section 65. KRS 131.570 is amended to read as follows:

(1) Upon determining that a pending individual income tax refund is subject to setoff as authorized under this section, the debtor shall be notified in writing by the ***Department of*** Revenue[~~ Cabinet~~] of the claim made against such refund by the named claimant agency, and of the ***Department of Revenue's***[~~Revenue Cabinet's~~] intention to set off the refund against the debt to the claimant agency. The notice shall provide that the debtor within thirty (30) days from the date of the notice may request a hearing before the claimant agency as provided by statute. No issues at such hearing may be considered that have been litigated previously and the debtor, after being given due notice of rights of appeal, must exercise such rights in a timely manner. The decision of the claimant agency shall be subject to appeal as all other decisions rendered by the claimant agency. No funds shall be transferred to a claimant agency until the debtor's appeal rights have been exhausted.

(2) Any excess of the pending refund amount over the total claim filed against such refund shall be promptly issued to the taxpayer by the ***Department of*** Revenue[~~ Cabinet~~].

(3) In the event funds transmitted to a claimant agency are subsequently determined by the claimant agency to be in excess of the liquidated debt, such claimant agency shall promptly refund the excess to the taxpayer.

(4) In the event the ***Department of*** Revenue[~~ Cabinet~~] erroneously transfers funds to a claimant agency, the claimant agency shall immediately upon notification thereof reimburse the ***Department of*** Revenue[~~ Cabinet~~] for the amount erroneously transmitted to such agency. The ***Department of*** Revenue[~~ Cabinet~~] shall promptly refund to the taxpayer the appropriate amount of such returned funds with interest as provided in KRS 131.183(2).

Section 66. KRS 131.575 is amended to read as follows:

(1) Any individual income tax refund determined as a consequence of taxpayers filing separate returns on a combined

Kentucky individual income tax form may be apportioned by the ***Department of*** Revenue~~[Cabinet]~~ between the spouses based on the ratio of the adjusted gross incomes of each spouse to the total adjusted gross income. The amount of the refund computed to be due the spouse who is not indebted to the claimant agency shall be refunded by the ***Department of*** Revenue~~[Cabinet]~~ to such spouse. In the event such refunded amount has been transmitted to the claimant agency, the ***Department of*** Revenue~~[Cabinet]~~ shall recover such amount from the claimant agency as provided in KRS 131.570(4).

(2) Any individual income tax refund determined as a consequence of taxpayers filing a joint Kentucky individual income tax return shall be deemed as coupled together in interest or liability and shall be subject to transfer to a claimant agency in its entirety.

Section 67. KRS 131.580 is amended to read as follows:

The ***Department of*** Revenue~~[Cabinet]~~ may promulgate rules and regulations necessary to develop, implement and administer the provisions of KRS 131.560 to 131.595.

Section 68. KRS 131.585 is amended to read as follows:

There is hereby created within the ***Department of*** Revenue~~[Cabinet]~~ a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010(13)(f), and all funds collected under KRS 131.565(5) shall be credited thereto with only the expenses of the ***Department of*** Revenue~~[Cabinet]~~ related to development, implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

Section 69. KRS 131.590 is amended to read as follows:

To defray the cost of development and implementation of KRS 131.560 to 131.595, there shall be credited to the state debt offset account an amount not to exceed $175,000, such amount to be derived from the amount of the Kentucky individual income tax refunds withheld under the provisions of KRS 131.560 to 131.595 for undisputed delinquent taxes due the ***Department of*** Revenue~~[Cabinet]~~.

Section 70. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 71. KRS 131.604 is amended to read as follows:

As used in KRS 131.604 to 131.630:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in KRS 131.600.

(7) "Cigarette" has the same meaning as in KRS 131.600.

(8) "***Commissioner" means the commissioner of the Department of Revenue***[~~Secretary" means the secretary of the Revenue Cabinet~~].

(9) "***Department" means the Department of Revenue***[~~Cabinet" means the Revenue Cabinet~~].

(10) "Tobacco product manufacturer" has the same meaning as in KRS 131.600.

(11) "Units sold" has the same meaning as in KRS 131.600.

(12) "Qualified escrow fund" has the same meaning as in KRS 131.600.

Section 72. KRS 131.650 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the ***department***[~~cabinet~~] may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the ***Department of*** Revenue[~~ Cabinet~~], and that meet the requirements of KRS 131.652.

(2) For purposes of this section, a taxpayer may be included on a list if:

(a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and

(b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.

(3) In the case of listed taxpayers that are business entities, the ***Department of*** Revenue[~~ Cabinet~~] may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.

(4) Before any list is published under this section, the ***department***[~~cabinet~~] shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

Section 73. KRS 131.652 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The ***department***[~~cabinet~~] is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The ***department***[~~cabinet~~] has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 74. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years, or both.

(e) Any present ***secretary of the Finance and Administration Cabinet, commissioner***[~~secretary~~] or employee of the ***Department of*** Revenue[~~ Cabinet~~], member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.

(3) Any person who willfully fails to comply with the rules and regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the ***department***[~~cabinet~~] that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

Section 75. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means:

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings,

and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 76. KRS 132.015 is amended to read as follows:

The property valuation administrator shall maintain lists of all real property additions and real property deletions to the property tax rolls for the county, consolidated local government, or urban-county, and each city, school district, and special district in the county, consolidated local government, or urban-county, and shall certify such lists to the ***Department of*** Revenue[~~ Cabinet~~], the city clerk of each city in the county which elects to use the annual county assessment as provided for in KRS 132.285, the treasurer or chief officer of each special district in the county, and the chief administrative officer of the urban-county and the consolidated local government at the time he files his recapitulation of property assessed on the tax roll with the ***Department of*** Revenue [~~Cabinet~~].

Section 77. KRS 132.047 is amended to read as follows:

(1) Every person having on September 1 of any year a savings account, in Kentucky in any credit union organized under the laws of this state or doing business in this state shall pay an annual tax to the state equal to one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of the savings account, and no deduction therefrom shall be made for any indebtedness. The tax shall be paid to the ***Department of*** Revenue[~~ Cabinet~~] by the credit union with which the savings account is made, as agent of the member on or before November 1 of each year. The credit union may charge to and deduct from the savings account of each member the amount of tax so paid on his behalf. A lien is hereby given to the credit union on the funds belonging to the respective member on which the tax has been so paid. Any claim for taxes against the member by the credit union paying the taxes shall be asserted within six (6) months after payment of the taxes to the ***department***[~~cabinet~~], and all claims or liens therefor shall be thereafter barred.

(2) Each credit union shall file with the ***Department of*** Revenue[~~ Cabinet~~] on or before September 21 each year a report setting forth the total amount of the savings account of members as of the preceding September 1 that would be taxable in the name of the member under the laws of this state.

(3) Any credit union that fails to make the returns or pay the taxes on behalf of its members within the time limits prescribed by KRS 132.043 and 132.047 shall be subject to the penalties and interest provided in KRS 131.180.

(4) No other tax shall be assessed by the state or any county, city, or other taxing district on such savings account or against the members on account of such savings account.

Section 78. KRS 132.060 is amended to read as follows:

(1) Every broker maintaining an office or place of business in this state for the conduct of the business of buying or selling bonds or other securities, excluding stocks and mutual funds, for customers in margin transactions shall report to the ***Department of*** Revenue[~~ Cabinet~~] as of January 1 of each year, the aggregate amount, with an accurate description and the market value, of all such securities then held or carried by such broker for each office or place of business in the state for resident customers, which report shall be filed with the ***department***[~~cabinet~~] on or before March 1 of each year.

(2) If the broker has doubt as to whether or not a customer is a resident of this state, he may, on or before making the required

report, call upon the customer to submit an affidavit upon a form to be prescribed by the ***department***[~~cabinet~~], stating the facts relied upon to establish his nonresidence. The broker may then report to the ***department***[~~cabinet~~] the name and post office address of such customer and the information as to securities held or carried for him, and file therewith the customer's affidavit. The broker shall then be relieved from making any further report and from collecting or paying any taxes for the customer.

(3) If the customer fails or refuses to furnish the affidavit required by the broker, the broker shall report and pay the tax for the customer, who shall then have no claim against the broker because of the payment of the tax charged to the customer's account.

Section 79. KRS 132.080 is amended to read as follows:

The taxes fixed under KRS 132.070 shall be paid to the ***Department of*** Revenue[~~ Cabinet~~] by the broker within thirty (30) days after the rendition of the tax bill, subject to the same rate of discount provided in KRS 134.020. The broker may charge to and collect from each customer his portion of the tax levied upon the securities held or carried for him. If the broker fails to pay the taxes when due, he shall be liable for interest thereon at the tax interest rate as defined in KRS 131.010(6), and an additional penalty of ten percent (10%) upon the amount of the taxes with interest.

Section 80. KRS 132.130 is amended to read as follows:

(1) Effective January 1, 1967, every owner, proprietor, or custodian of a bonded warehouse or of premises under the control and supervision of the United States Internal Revenue Service, in which distilled spirits are stored shall between January 1 and February 1 of each year file with the ***Department of*** Revenue[~~ Cabinet~~] a report sworn to by him showing the quantity and kind of distilled spirits in the bonded warehouse or premises as of January 1 of that year; the quantity and kind of spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises for transfer in bond out of this state during the preceding twelve (12) months; the county, city, and taxing district in which such distilled spirits were certified for taxation; the fair cash value of the distilled spirits estimated at a price it would bring at a fair voluntary sale; and such other facts pertaining to the distilled spirits as the ***department***[~~cabinet~~] may require.

(2) On January 1, May 1, and September 1, after the federal tax has been paid or becomes due, or after any of the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state, every owner, proprietor, or custodian of a bonded warehouse or premises in which distilled spirits are stored upon which taxes have accrued on assessments prior to January 1, 1967, shall file with the ***Department of*** Revenue[~~ Cabinet~~] and the county clerk, in which county the distilled spirits were at the time of the assessment, a statement, sworn to by him, showing the quantity of the distilled spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises or transferred in bond out of this state during the preceding four (4) months; the years in which such distilled spirits were assessed for taxation; and the county, city, or taxing district in which the distilled spirits were stored at the time of the assessment. At the same time, all taxes and interest on such distilled spirits due the state, county, or other taxing district shall be paid to the officers entitled to receive them. The report required by this section shall be made whether or not any distilled spirits are stored in the bonded warehouse or premises at the time the report is due.

Section 81. KRS 132.140 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, and keep a record of its valuations and assessments. The ***department***[~~cabinet~~] shall immediately notify the owner or proprietor of the bonded warehouse or premises of the amount fixed.

(2) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the ***department***[~~cabinet~~] shall ascertain the necessary facts required to be reported. For that purpose the ***department***[~~cabinet~~] shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.

(3) The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

Section 82. KRS 132.180 is amended to read as follows:

(1) Any person having custody of distilled spirits in a bonded warehouse or premises on the day as of which the assessment is made shall be liable for all taxes due thereon, together with all interest and penalties that may accrue. Any owner, proprietor, or custodian of such distilled spirits who pays the taxes, interest and penalties on the distilled spirits shall have a lien thereon for the amount paid, with legal interest from day of payment.

(2) Taxes on distilled spirits which are subject to the provisions of KRS 132.160(1)(a) shall become due and payable in the manner provided by KRS 134.020 except that taxes due the state shall be paid directly to the ***Department of*** Revenue[~~ Cabinet~~].

Section 83. KRS 132.216 is amended to read as follows:

(1) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], verified by its president, secretary, treasurer, or other proper officer, giving the names and addresses of residents of this state entitled to proceeds of life insurance policies left on deposit with the insurance company and

subject to the right of withdrawal as of January 1 previous thereto, with the amount left on deposit in each individual's name, and other information as may be required by the ***Department of*** Revenue[~~ Cabinet~~] by regulation.

(2) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~], verified by its president, secretary, treasurer, or other proper officer, giving the name and address of any resident of this state who is the beneficiary of a policy or policies with the insurance company, subject to taxation under KRS 132.215, with the amount paid to the Kentucky resident during the twelve (12) months immediately preceding January 1, the age of the individual receiving these payments as of January 1, and such other information as the ***Department of*** Revenue[~~ Cabinet~~] may require by regulation.

Section 84. KRS 132.240 is amended to read as follows:

Individuals or corporations listing property for taxation with the property valuation administrator or the county board of supervisors shall reveal the face value of all intangibles listed, except cash or bank deposits, on the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for listing intangible property. A reduction of fifty cents ($0.50) shall be made from the property valuation administrator's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, except cash or bank deposits.

Section 85. KRS 132.260 is amended to read as follows:

Every person providing rental space for the parking of mobile homes and recreational vehicles shall by February 1 of each year report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 on his premises on the prior January 1 to the property valuation administrator of the county in which the property is located. The report shall be made in accordance with forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall be signed and verified by the chief officer or person in charge of the business. The property valuation administrator may make a personal inspection and investigation of the premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

Section 86. KRS 132.285 is amended to read as follows:

(1) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the ***Department of*** Revenue[~~ Cabinet~~] and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent ($0.005) for each one hundred dollars ($100) of assessment; provided, that sums paid shall not be less than two hundred fifty dollars ($250), nor more than forty thousand dollars ($40,000) in a city having an assessment subject to city tax of less than two billion dollars ($2,000,000,000) or fifty thousand dollars ($50,000) in a city having an assessment subject to city tax of more than two billion dollars ($2,000,000,000). This allowance shall be based on the assessment as of the previous January 1. Each property valuation administrator shall file a claim with the city and the city shall order payment in an amount not to exceed the appropriation authorized by this section. The property valuation administrator shall be required to account for all moneys paid to his office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year. Notwithstanding any statutory provisions to the contrary, the assessment dates for such city shall conform to the corresponding dates for the county, and such city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment. The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, fiscal year, due and delinquency dates for taxes and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary. Any such city may, by ordinance, abolish any office connected with city assessment and equalization; except that in the case of a city assessor who is elected by the qualified voters of the city, the office may not be abolished before the end of the term of such assessor. Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within such city by additional payment of the cost thereof. Once any city elects to use the county assessment, such action cannot be revoked without notice to the ***Department of*** Revenue[~~ Cabinet~~] and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.

(2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310 such assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.

(3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).

(4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection

(1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

Section 87. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the ***Department of*** Revenue[~~ Cabinet~~], may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The ***Department of*** Revenue[~~ Cabinet~~] shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the ***Department of*** Revenue[~~ Cabinet~~] may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

Section 88. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the ***Department of*** Revenue[~~ Cabinet~~] shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, ***department***[~~cabinet~~] or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the District Court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the ***Department of*** Revenue[~~ Cabinet~~] making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 89. KRS 132.340 is amended to read as follows:

(1) Within ten (10) days after the summons has been served, or within thirty (30) days after the warning order against the defendant whose name and place of residence are unknown has been made, if it appears to the county judge/executive that the property is liable for taxation and has not been assessed, the county judge/executive shall enter an order fixing the value at the fair cash value estimated as required by law. The county judge/executive shall certify the assessment of the property and its value, together with such other facts as may be required by law or directed by the county judge/executive to appear in the order, to the ***Department of*** Revenue[~~ Cabinet~~] and to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the state, county, school or any other taxing district may be collected, with the penalty and costs. If the property is not liable for taxes, the county judge/executive shall make an order to that effect. Either party may appeal from the decision of the county judge/executive to the Circuit Court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the secretary of revenue acting as the relator.

(2) If the owner of the property fails to pay the tax assessed, interest, penalties and costs, the lien under the attachment may be

enforced and a sufficiency of the property sold to pay the obligation to the state, county, school or other taxing district. All persons owning property that is assessed as herein provided shall, in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty percent (20%) on the amount of the taxes due, except where the property was duly listed and the taxes paid thereon within the time prescribed by law, and except where some different penalty is expressly provided by law.

(3) The taxes, costs and penalties shall be collected and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in a book to be kept for that purpose, showing the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof. The officer collecting the taxes shall, when they are paid, notify the clerk of the payment, and the payment shall be noted by the clerk opposite the entry of the assessment.

Section 90. KRS 132.350 is amended to read as follows:

The county clerk shall, upon the filing of a statement by an agent, accountant or attorney of the ***Department of*** Revenue[~~ Cabinet~~] for the assessment of omitted property, enter the name of the person signing the statement as attorney for the ***department***[~~cabinet~~], and enter the name of the county attorney as attorney for the state, county, school and other taxing districts for which the ***commissioner***[~~secretary~~] of revenue is authorized to act as relator in such proceeding. The county attorney shall appear and prosecute or assist in the prosecuting of the proceeding in all the courts to which it may be taken for trial. If there is a judgment assessing the property for taxation, the judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of the proceeding. When he is present and assists in the proceeding he shall be allowed as compensation for his services ten percent (10%) of the amount of state and county taxes assessed and collected pursuant to the judgment. The state and county shall be liable respectively for the payment only of the percentage allowance of compensation to the county attorney on the amount that each collects, and this shall be paid to the county attorney within thirty (30) days after the collection of the taxes, and charged against the fund to which the tax was credited.

Section 91. KRS 132.360 is amended to read as follows:

(1) Any assessment of accounts receivable, notes, or bonds or other intangible or tangible personal property that were listed with the property valuation administrator or with the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 132.220 may be reopened by the ***Department of*** Revenue[~~ Cabinet~~] within five (5) years after the due date of the return, unless the assessed value thereof is the face value in the case of accounts receivable and notes or the quoted value in the case of bonds, or has been established by a court of competent jurisdiction. If upon reopening the assessment the ***department***[~~cabinet~~] finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within forty-five (45) days thereafter protest to the ***department***[~~cabinet~~] and offer evidence to show that no increase should be made. After the ***department***[~~cabinet~~] has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and 131.340.

(2) Upon such assessment becoming final the ***department***[~~cabinet~~] shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 92. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full-time employees shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355, and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the Circuit Court of his county, upon petition of any taxpayer, or by the ***commissioner of the Department of Revenue***[~~secretary of revenue~~] for any of the following grounds: willful disobedience of any just or legal order of the ***department***[~~cabinet~~], or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 134.385, "chronic underassessment" shall mean a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 134.385, or other means.

(5) If the secretary determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his right to a preremoval conference and an administrative hearing.

(6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the ***commissioner***[~~secretary~~] or his designee to answer the charges against him. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The ***commissioner***[~~secretary~~] or his designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his right to contest his removal through an administrative hearing.

(7) If an action to remove a property valuation administrator is initiated by the ***commissioner***[~~secretary~~] of revenue, the property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the ***commissioner***[~~secretary~~] of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS Chapter 18A.

(8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the ***Department of*** Revenue[~~ Cabinet~~] pertaining to the office.

(9) Notwithstanding the provisions of KRS 18A.110(5)(c), the ***department***[~~cabinet~~] shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

Section 93. KRS 132.375 is amended to read as follows:

Whenever a vacancy occurs in the property valuation administrator's office, the ***commissioner***[~~secretary~~] of revenue shall designate a qualified ***department***[~~cabinet~~] employee to carry on the duties of the office until the vacancy is filled by appointment or by election. The ***department***[~~cabinet~~] employee so designated shall be compensated from ***Department of*** Revenue[~~ Cabinet~~] funds in the same manner and at the same rate as compensated prior to his receiving the designation, plus necessary expenses, including travel. The individual shall have all the powers and be subject to all the administrative regulations applying to property valuation administrators.

Section 94. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the ***Department of*** Revenue[~~ Cabinet~~], showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance, except for the certificates issued to successful candidates of the 1997 exam. Those certificates shall remain valid until after the November, 1998 election. The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The ***Department of*** Revenue[~~ Cabinet~~] shall hold the examinations in at least one (1) place in each Supreme Court district during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected. The ***Department of*** Revenue[~~ Cabinet~~] shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before the examination is given. Any person desiring to take an examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the ***Department of*** Revenue[~~ Cabinet~~] shall hold a second examination prior to the filing date in each Supreme Court district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the ***Department of*** Revenue[~~ Cabinet~~] may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the ***department***[~~cabinet~~] published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the ***Department of*** Revenue[~~ Cabinet~~] to each person passing the examination.

(5) Examination records shall be preserved by the ***department***[~~cabinet~~] for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the ***Department of*** Revenue[~~ Cabinet~~] in Frankfort, Kentucky.

Section 95. KRS 132.400 is amended to read as follows:

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the ***Department of*** Revenue[~~ Cabinet~~]. In counties containing a city of the first class or consolidated local government, the bond shall be in the sum of one hundred thousand dollars ($100,000); in counties containing a city of the second class, fifty thousand dollars ($50,000); in all other counties, twenty thousand dollars ($20,000).

Section 96. KRS 132.420 is amended to read as follows:

The property valuation administrator shall, subject to the direction, instruction, and supervision of the ***Department of*** Revenue[~~ Cabinet~~], make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have other powers and duties relating to assessment as may be prescribed by law or by the ***department***[~~cabinet~~].

Section 97. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the Kentucky Board of Tax Appeals relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the ***Department of*** Revenue[~~ Cabinet~~] directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

Section 98. KRS 132.485 is amended to read as follows:

(1) (a) The registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for valuing motor vehicles for assessment unless the registrant appears before the property valuation administrator to assess the vehicle. The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.

(b) The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.

(3) This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

Section 99. KRS 132.486 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall develop and administer a centralized ad valorem assessment system for intangible personal property and tangible personal property. This system shall be designed to provide on-line computer terminals and accessory equipment in every property valuation administrator's office in the state in order to create and maintain a centralized personal property tax roll database.

(2) State income tax returns and return preparation instructions shall be revised to facilitate the preparation of the personal property tax return; however, the personal property tax return shall be a separate document and shall be listed with the property valuation administrator in the county of taxable situs according to the provisions of KRS 132.220(1) or with the ***Department of*** Revenue[~~ Cabinet~~]. The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations and develop forms for the listing and assessment of personal property.

(3) Appeals of personal property assessments shall not be made to the county board of assessment appeals. Personal property taxpayers shall be served notice under the provisions of KRS 132.450(4) and shall have the protest and appeal rights granted under the provision of KRS 131.110.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in a protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

Section 100. KRS 132.490 is amended to read as follows:

(1) Each county clerk shall, by March 1 of each year, unless the time is extended by the ***Department of*** Revenue[~~ Cabinet~~], make and certify to the various property valuation administrators complete statements of all purchase money notes, mortgage notes and other obligations for money due, except those owned by banks, trust companies or real estate title insurance companies, as shown by the conveyances, mortgages and liens in his office. The statements shall distinctly show the dates of execution and maturity of the notes or other evidences of indebtedness, the consideration, the date of filing or

recording, the amount, and the county of the residence of the owner, payee, beneficial holder thereof or other person liable for taxes thereon.

(2) The statements shall be made to each property valuation administrator of the state as to the notes or other evidences of indebtedness owned or held by persons residing or having their principal place of business in the county of that property valuation administrator. Each statement shall cover a period of one (1) year next prior to January 1 of each year. The statements shall be sworn to by the clerk before some person authorized to administer oaths, as a complete statement of the facts.

(3) For his services in making these statements, the clerk shall be paid reasonable compensation by the fiscal court of his county.

Section 101. KRS 132.510 is amended to read as follows:

Every executor, administrator, guardian, conservator, trustee, trustee in bankruptcy, receiver or other person acting in a fiduciary capacity shall, when required, file with the ***Department of Revenue***[~~revenue cabinet~~] a sworn inventory showing in detail the amount and character of personal property in his hands, unless the inventory has been filed as a public record in the court in which the fiduciary qualifies. The ***department***[~~cabinet~~] may examine the books and accounts of any person acting in a fiduciary capacity. No fiduciary shall receive a final discharge until he has satisfied the court settling his accounts that all taxes against the estate have been paid.

Section 102. KRS 132.520 is amended to read as follows:

(1) Every bank, trust company, combined bank and trust company, and real estate title insurance company doing business in this state shall, by February 1 of each year, unless the time is extended by the ***Department of*** Revenue[~~ Cabinet~~], file with the ***department***[~~cabinet~~] a report sworn to by its president, vice president, treasurer, or cashier, showing as of January 1 of each year:

   (a) A list of the notes, bonds, or other evidences of indebtedness secured by mortgage or other recorded instrument standing in its name of record that it has assigned or transferred during the preceding year without making a transfer of record, the amount of each, and the name and address of the person to whom each was assigned. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfers of the securities during that year need not be furnished.

   (b) A list of the mortgages standing in its name on January 1 that were assigned of record to it during the preceding year with its knowledge and consent, where it has not become the absolute owner of the debt secured thereby, showing the amount of each such mortgage and the name and address of each assignor. Any mortgage assigned to it during any year and paid and released of record prior to January 1 need not be included in the report.

   (c) A list of all debenture bonds, collateral trust bonds, notes, certificates, and other evidences of indebtedness issued, assigned, or transferred by it during the preceding year that are secured by and represent the beneficial interest in lien notes, bonds, or mortgages standing in its name of record, the amount of each such evidence of indebtedness, and the name and address of the person to whom each was assigned or transferred. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfer or assignment of the securities need not be furnished.

   (d) A list of all lien notes, bonds, mortgages, certificates, and other evidences of indebtedness that it has assigned or transferred to any person as security for the issuing of any debenture or collateral trust bonds, the amount of each, and the name and address of the person to whom each was assigned.

(2) The reports required under paragraphs (a) and (b) of subsection (1) of this section need not include sales or pledges from one (1) bank, trust company, or combined bank and trust company to another bank or company, or notes or obligations secured by any recorded instrument executed to a bank, trust company, or a combined bank and trust company in which the obligations secured by the instrument are divided among estates or accounts in charge of the bank or company and regularly and properly entered on its records. The provisions of this section do not apply to mortgages made by corporations to trustees to secure bond issues made by them in the regular course of business, except as provided in paragraph (c) of subsection (1) of this section.

(3) The information thus obtained shall be communicated by the ***department***[~~cabinet~~] to the property valuation administrator and the board of assessment appeals of the respective counties in which the true owners of the debts reside.

Section 103. KRS 132.550 is amended to read as follows:

(1) After the county clerk has completed the services required of him upon delivery of the tax rolls and schedules to him by the property valuation administrator, he shall then calculate the taxes due the state, county, school, county polls, and school polls, for each individual taxpayer, opposite their name in the tax rolls, upon the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The rolls and forms shall be a permanent record of the county clerk's office.

(2) For performing the services required by this section the county clerk shall be paid the sum of fifteen cents ($0.15) for each tax list on the tax rolls, one-half (1/2) of this sum to be paid by the state, and the other one-half (1/2) to be paid by the county.

Section 104. KRS 132.570 is amended to read as follows:

(1) No person shall willfully make a false statement, or, to avoid taxation, make a temporary investment in securities exempt from taxation, or convert any intangible property into nontaxable property outside of this state, or resort to any device to evade taxation. Any person doing so shall be subject to three (3) times the amount of tax upon his property, to be recovered by the sheriff by action in the name of the Commonwealth in the county in which the property is liable for taxation, or by the ***Department of*** Revenue[~~ Cabinet~~], when the taxes are payable to it, in the Franklin Circuit Court.

(2) No person shall transfer or assign of record any mortgage note, bond or other evidence of indebtedness, secured by any recorded instrument, for the sole purpose of evading the taxes thereon.

Section 105. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the ***Department of*** Revenue[~~ Cabinet~~] annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the ***department***[~~cabinet~~] shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the ***department***[~~cabinet~~] increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the ***Department of*** Revenue[~~ Cabinet~~] the total number of years, not to exceed four (4) years, that the person has previously served in the office. The ***department***[~~cabinet~~] shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents ($687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the ***commissioner***[~~secretary~~] of the Kentucky ***Department of*** Revenue[~~ Cabinet~~], to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~]. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The ***Department of*** Revenue[~~ Cabinet~~] may make grade classification changes corresponding to any approved for ***department***[~~cabinet~~] employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the ***department***[~~cabinet~~] may extend cost-of-living increases approved for ***department***[~~cabinet~~] employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

(6) Beginning with the 1990-1992 biennium, the ***Department of*** Revenue[~~ Cabinet~~] shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the ***Department of*** Revenue[~~ Cabinet~~]. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the ***Department of*** Revenue[~~ Cabinet~~] a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The ***Department of*** Revenue[~~ Cabinet~~] shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the ***Department of*** Revenue[~~ Cabinet~~] to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the ***Department of*** Revenue[~~ Cabinet~~] and shall be subject to the approval of the ***Department of*** Revenue[~~ Cabinet~~]. The Personnel Cabinet shall provide advice and technical assistance to the ***Department of*** Revenue[~~ Cabinet~~] in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the ***Department of*** Revenue[~~ Cabinet~~] in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the ***Department of*** Revenue[~~ Cabinet~~] prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to

County Tax of:

At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to
County Tax of:

At Least	But Less Than	Limit
----	$700,000,000	$25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the ***Department of*** Revenue~~[Cabinet]~~ only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars

($125,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 106. KRS 132.597 is amended to read as follows:

(1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the State Treasury in monthly installments of three hundred dollars ($300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

(2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.

(3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted or approved by the ***Department of*** Revenue[~~ Cabinet~~]. Any property valuation administrator failing to meet the ***department's***[~~cabinet's~~] requirements for any calendar year shall not receive the three thousand six hundred dollar ($3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.

(4) The annual requirement for participation in classroom instruction shall be reduced to fifteen (15) hours for any property valuation administrator awarded the "senior Kentucky assessor" (SKA) professional designation under the provisions of KRS 132.385.

Section 107. KRS 132.601 is amended to read as follows:

(1) The property valuation administrator of any county may, after receiving an approved budget from the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 132.590, obligate and spend any of the local funds accruing to his office under the provisions of KRS 132.590 or KRS 132.285, over and above that actually used in compensating his deputies and assistants, for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records.

(2) The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars ($5,000), whichever is greater, shall be retained. Any funds in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct proportion to their respective appropriations.

(3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after approval of the annual budget for the office of the property valuation administrator provided in KRS 132.590 by the ***Department of*** Revenue[~~ Cabinet~~], the necessity of the expenditure shall not be questioned by the fiscal court. The ***Department of*** Revenue[~~ Cabinet~~] shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The Auditor of Public Accounts shall assume the responsibility.

Section 108. KRS 132.605 is amended to read as follows:

(1) The fiscal court of each county shall have jurisdiction and the power to purchase and supply to the property valuation administrator any maps, lists, charts, materials, supplies, equipment or instruments which are reasonably necessary for a complete and accurate assessment of property in the county. The ***Department of*** Revenue[~~ Cabinet~~] is authorized to purchase and loan any property valuation administrator such maps, lists, charts, materials, supplies, equipment or instruments as are urgently needed by any property valuation administrator, provided that the ***Department of*** Revenue[~~ Cabinet~~] keeps a record thereof.

(2) The fiscal court of any county shall provide for the maintenance of all maps, lists, charts, materials, supplies, equipment or instruments owned by a county or supplied to it by the ***Department of*** Revenue[~~ Cabinet~~] or by any source in cooperation with the ***Department of*** Revenue[~~ Cabinet~~] for the purpose of facilitating the assessment of property.

Section 109. KRS 132.620 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky Board of Tax Appeals, or a court of competent jurisdiction that such assessments

were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The ***Department of*** Revenue~~[Cabinet]~~ shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky Board of Tax Appeals, and an appeal may be taken from the final action of the Kentucky Board of Tax Appeals to the courts as provided by law.

(2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

Section 110. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the ***Department of*** Revenue~~[Cabinet]~~ as provided in KRS 132.590 (2).

Section 111. KRS 132.660 is amended to read as follows:

(1) The ***Department of*** Revenue~~[Cabinet]~~ shall have authority to order an emergency assessment of all or any part of the taxable property in any taxing district to be made by one (1) or more persons appointed for that purpose by the ***department***~~[cabinet]~~, whenever: there has been no regular assessment; the records of an assessment have been destroyed, mutilated or lost; complaint is made by the owners of not less than ten percent (10%) in value of the taxable property in the taxing district; or investigation of the ***department***~~[cabinet]~~ discloses that the assessment of property in such taxing district is so grossly inequitable or fiscally infeasible that an emergency exists. The order directing such emergency assessments shall state the reasons therefor and a copy shall be filed in the office of the county clerk where the property lies. Such order, when filed, shall void any assessment for the assessment year for which the emergency assessment is made. Any person appointed to make such an emergency assessment shall have the same powers and duties as the property valuation administrator. Whenever the tax roll has been completed under an emergency assessment and the tentative valuations have been determined, the ***department***~~[cabinet]~~ shall cause to be published pursuant to KRS Chapter 424, a notice as to the date when the tax roll will be ready for inspection and the time available for such purpose; also a copy of the notice shall be posted at the courthouse door. If any property is assessed at a greater value than that listed by the taxpayer or unlisted property is assessed, the taxpayer shall be charged with notice of such action by reason of the inspection period, and no further notice need be given of such action taken before the beginning of the inspection period. At the close of the inspection period, the tax roll shall be delivered to the county clerk and the county judge/executive shall immediately convene the board of assessment appeals to hear and determine any appeals from such emergency assessment. The board shall remain in session for the time and shall receive the compensation as provided in KRS 133.030(3). Appeals shall be taken and heard from such emergency assessments in the same manner as appeals from regular assessments.

(2) The ***department***~~[cabinet]~~ may appoint the property valuation administrator to make an emergency assessment provided he was not at fault, and if the property valuation administrator is so appointed he shall receive reasonable compensation for his services in making this assessment, which shall not affect in any manner the payment to him of any compensation that he has received for himself or on behalf of a deputy or that may be due him, for services in making the regular assessment. Whenever through the property valuation administrator's fault an emergency assessment is ordered, the property valuation administrator shall become liable for the cost thereof as provided in KRS 132.620, such cost to be limited to the amount due or paid him in accordance with the provisions of KRS 132.590.

Section 112. KRS 132.670 is amended to read as follows:

(1) The ***Department of*** Revenue~~[Cabinet]~~ shall prepare detailed maps identifying every parcel of real property within each county of the state. Each county shall furnish to the ***department***~~[cabinet]~~ adequate facilities in the county courthouse in which to work. The ***Department of*** Revenue~~[Cabinet]~~ shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy property valuation administrator. Locally employed mapping project personnel shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

(2) The ***Department of*** Revenue~~[Cabinet]~~ shall conduct a biennial review of the quality of maps and ownership records in each county. If, in the first review conducted under these provisions, the maps and records in any county fail to meet the minimum standards established by the ***department***~~[cabinet]~~, the ***department***~~[cabinet]~~ shall assume responsibility for remapping, revision, and updating under the provisions of subsection (1) of this section. Minimum maintenance standards to be followed by each property valuation administrator shall be established by the ***department***~~[cabinet]~~.

Section 113. KRS 132.672 is amended to read as follows:

(1) The ***Department of*** Revenue~~[Cabinet]~~ is authorized to establish an account entitled the "mapping project account" which is a fund created within the restricted fund group set forth in KRS 45.305. The purpose of this account is to provide funds

for the mapping project as set forth in KRS 132.670. This account shall not lapse.

(2) There is hereby authorized to be deposited into this account the balance of the money heretofore deposited in the "Kentucky Wastewater Revolving Fund" created pursuant to KRS 107.600, now repealed.

(3) The ***commissioner***[~~secretary~~] of revenue or any person duly authorized by him shall have the authority to withdraw from this account for the purpose set forth in subsection (1) of this section.

Section 114. KRS 132.690 is amended to read as follows:

(1) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall be physically examined no less than once every four (4) years by the property valuation administrator or his assessing personnel. In accordance with procedures prescribed by the ***Department of*** Revenue[~~ Cabinet~~], the property valuation administrator shall submit an assessment schedule to the ***department***[~~cabinet~~] and shall maintain a record of physical examination and revaluation for each parcel of real property which includes, in addition to other relevant information, the inspection dates.

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) If the property valuation administrator fails to revalue property as required by this section, the ***Department of*** Revenue[~~ Cabinet~~] shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator willfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the ***Department of*** Revenue[~~ Cabinet~~] to correct the assessment shall have his compensation suspended by the ***department***[~~cabinet~~] and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.

(4) Nothing in this section shall prohibit action by the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 133.150 or 132.660 in any year in which the ***department***[~~cabinet~~] determines such action to be necessary.

Section 115. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit, but the sixty-five hundred dollars ($6,500) exemption shall be construed to mean sixty-five hundred dollars ($6,500) in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.

(f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

(5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

Section 116. KRS 132.815 is amended to read as follows:

(1) Each electrical inspector certified under KRS 227.489 shall submit a monthly report to the ***Department of*** Revenue[~~ Cabinet~~] showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be used for the purpose of making and maintaining accurate assessment records. The ***Department of*** Revenue[~~ Cabinet~~] shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1).

Section 117. KRS 132.820 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the ***Department of*** Revenue[~~ Cabinet~~] as a distinct interest in real property, separate and apart from the surface real estate unless:

(a) The unmined coal, oil and gas reserves, and other mineral or energy resources are owned in their entirety by the surface owner;

(b) The surface owner is neither engaged in the severance, extraction, processing, or leasing of mineral or other energy resources nor is he an affiliate of a person who engages in those activities; and

(c) The surface is being used by the surface owner primarily for the purpose of raising for sale agricultural crops, including planted and managed timberland, or livestock or poultry.

For purposes of this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the ***department***[~~cabinet~~] in a form as the ***department***[~~cabinet~~] may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the ***department***[~~cabinet~~] to file a return.

(3) Any property subject to assessment by the ***department***[~~cabinet~~] under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting

officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

Section 118. KRS 132.990 is amended to read as follows:

(1) Any person who willfully fails to supply the property valuation administrator or the ***Department of*** Revenue~~[Cabinet]~~ with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who willfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense.

(3) Any county clerk who willfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50) for each offense.

(4) Any person who willfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

Section 119. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "***Department***~~[Cabinet]~~" means the ***Department of*** Revenue~~[Cabinet]~~.

(3) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 120. KRS 133.020 is amended to read as follows:

(1) The county board of assessment appeals shall be composed of reputable real property owners residing in the county at least five (5) years. The appointing authorities may appoint qualified property owners residing in adjacent counties when qualified members cannot be secured within the county. The board shall consist of three (3) members, one (1) to be appointed by the county judge/executive, one (1) to be appointed by the fiscal court, and one (1) to be appointed by the mayor of the city with the largest assessment using the county tax roll or appointed as otherwise provided by the comprehensive plan of an urban-county government. Beginning with the 1995 appeals, the mayor's appointment shall serve for four (4) years, the county judge/executive's appointment shall serve for three (3) years, and the fiscal court's appointment shall serve for two (2) years. Each person appointed thereafter shall serve for three (3) years. If no city in the county uses the county assessment, the county judge/executive shall appoint two (2) members. Board members appointed prior to July 14, 1994, shall be eligible for reappointment by the appointing authority if they meet the requirements of subsection (2) of this section. A board member who has served for a full term shall not be eligible for reappointment. However, he shall be eligible for appointment after a hiatus of three (3) years. If the number of appeals to the board of assessment appeals filed with the county clerk exceeds one hundred (100), temporary panels of the board may be appointed with approval of the ***Department of*** Revenue~~[Cabinet]~~. Each temporary panel shall consist of three (3) members having the same qualifications and appointed in the same manner as the board members. The number of additional panels shall not exceed one (1) for each one hundred (100) appeals in excess of the first one hundred (100). The county judge/executive shall designate one (1) of the members of the board of assessment appeals to serve as chairman of the board. If additional panels are appointed, as provided in this subsection, the chairman of the board of assessment appeals shall designate one (1) member of each additional panel as chairman of the panel. A majority of the board or of any panel may determine the action of the board or panel respectively and make decisions. Each panel of the board shall have the same powers and duties given the board by KRS 133.120, except the action of any panel shall be subject to review and final approval by the board.

(2) Each member of the board shall have extensive knowledge of real estate values, preferably in real estate appraisal, sales, management, financing, or construction. In counties with cities of the first, second, or third class, the member appointed by the mayor shall be a certified real estate appraiser unless the mayor provides sufficient proof to the ***department***~~[cabinet]~~ of his inability to secure a certified real estate appraiser.

(3) The board shall be subject to call by the county judge/executive at any time prescribed by law.

(4) The members of the county board of assessment appeals, and any panel of the board, before undertaking their duties, shall take the following oath, to be administered by the county judge/executive: "You swear (affirm) that you will, to the best of your ability, discharge the duties required of you as a member of the county board of assessment appeals, and that you will fix at fair cash value all property assessments brought before you for review as prescribed by law."

(5) The ***department***[~~cabinet~~] shall prepare and furnish to each property valuation administrator guidelines and materials for an orientation and training program to be presented to the board by the property valuation administrator or his deputy each year.

(6) A board member shall produce evidence of his qualifications upon request of the ***department***[~~cabinet~~]. A board member shall be replaced by the appointing authority upon proof of the member's failure to meet the qualifications of the position. Any vacancy on the board shall be filled by the appointing authority that appointed the member to be replaced. The appointee shall have the qualifications required by statute for the board member appointed by the particular appointing authority and shall hold office only to the end of the unexpired term of the member replaced.

(7) Members of the county board of assessment appeals, and any temporary panel, shall abstain from hearing or ruling on an appeal for any property in which they have any personal or private interests.

Section 121. KRS 133.030 is amended to read as follows:

(1) The county board of assessment appeals shall convene each year at the county seat no earlier than twenty-five (25) days and no later than thirty-five (35) days following the conclusion of the tax roll inspection period provided for in KRS 133.045; except that no meeting shall be held until the tax roll has been completed and the inspection period has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the ***Department of*** Revenue[~~ Cabinet~~] as provided by KRS 132.690 or by the ***department***[~~cabinet~~] itself as provided by KRS 133.150. All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board while meeting.

(2) The first regular meeting day of the board shall be devoted to the orientation and training program provided for in KRS 133.020(5), to a review of the assessment of the property valuation administrator and his deputies, and to a review of the appeals filed with the county clerk as clerk of the board, including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section, and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.

(3) The board of assessment appeals shall continue in session only such time as is necessary to hear appeals. The board shall not continue in session more than one (1) day, if there are no appeals to be heard, nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the ***Department of*** Revenue[~~ Cabinet~~] upon request of the county judge/executive. Each board member shall be paid one hundred dollars ($100) for each day he serves. This compensation shall be paid one-half (1/2) out of the county levy and the other half out of the State Treasury.

(4) Members of temporary panels of the board shall serve the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the ***Department of*** Revenue[~~ Cabinet~~]. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

Section 122. KRS 133.047 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 61.870 to 61.884, when the ***Department of*** Revenue[~~ Cabinet~~] has completed action on the assessment of property in any county and has certified the assessment to the county clerk of that county, as provided for in KRS 133.180, the property tax roll, or a copy of the property tax roll, shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. The property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office.

(3) Personal property tax returns, accompanying documents, and assessment records, with the exception of the certified personal property tax roll, shall be considered confidential under the provisions of KRS 131.190.

(4) Real property tax returns and accompanying documents submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 to KRS 61.884. However, notwithstanding the provisions of KRS 61.874 the ***Department of*** Revenue[~~ Cabinet~~] shall develop and provide to each property valuation administrator a reasonable fee schedule to be used in compensating for the cost of personnel time expended in providing information and assistance to persons seeking information to be used for commercial or business purposes. Any person seeking information on his own property, or any other person, including the press, seeking information directly related to property tax assessment, appeals, equalization, requests for refunds, or similar matters shall not be subject to fees for personnel time.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall provide advice, guidelines, and assistance to each property valuation administrator in implementing the provisions of KRS 61.870 to 61.884.

Section 123. KRS 133.110 is amended to read as follows:

(1) After submission of the final real property recapitulation or certification of the personal property assessment, the property valuation administrator may correct clerical, mathematical, or procedural errors in an assessment or any duplication of assessment. Changes in assessed value based on appraisal methodology or opinion of value shall not be valid. All corrections shall be reviewed by the ***Department of*** Revenue[~~ Cabinet~~] and those changes determined by the ***department***[~~cabinet~~] to be invalid shall be rescinded. Any taxpayer affected by this rescission shall not be subject to additional penalties.

(2) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of property tax revenue incurred by a taxing district due to corrections made after the tax rate has been set may be recovered by making an adjustment in the tax rate to be set for the next tax year.

Section 124. KRS 133.123 is amended to read as follows:

When an appeal is taken from an assessment by the property valuation administrator, of property which the owner does not consider to be subject to taxation, it shall be the duty of the county board of assessment appeals to obtain and follow advice from the ***Department of*** Revenue[~~ Cabinet~~] relative to the taxability of such property; however, the board shall have full power and responsibility to make a determination of the fair cash value of such property.

Section 125. KRS 133.125 is amended to read as follows:

(1) No later than three (3) working days after the expiration of the inspection period provided for in KRS 133.045, the county clerk shall provide a copy to the property valuation administrator of each appeal petition and a summary of the appeals filed with the county board of assessment appeals. The summary shall be in a format, or on a form, provided or approved by the ***Department of*** Revenue[~~ Cabinet~~]. The property valuation administrator shall, within three (3) working days of receipt of the summary, prepare and submit to the ***Department of*** Revenue[~~ Cabinet~~] a final recapitulation of the real property tax roll incorporating all changes made since the submission of the first recapitulation. Those properties under appeal shall be listed for recapitulation and certification purposes at the value claimed by the taxpayer. After submission of the final recapitulation to the ***Department of*** Revenue[~~ Cabinet~~], assessments shall not be amended except for adjustments ordered by the board and for corrections made under the provisions of KRS 133.110 and KRS 133.130.

(2) The county clerk, or an authorized deputy, shall act as clerk of the board of assessment appeals; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the ***Department of*** Revenue[~~ Cabinet~~] within five (5) days after the adjournment of the board.

(3) The county clerk shall certify to the county judge/executive the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the board members for their services. On a presentation of a copy of the order, the Finance and Administration Cabinet shall draw a warrant on the State Treasurer in favor of the board members and clerk for the amount due for their services.

(4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board of their county, and they shall be paid in the same manner as members of the board are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

Section 126. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the property valuation administrator of the county in which the assessment was made. If the property valuation administrator finds that he was not the owner of the property assessed, he may correct the same by releasing him from the payment of the tax, and shall assess the property immediately against the rightful owner.

(2) A protest may be made to the ***Department of*** Revenue[~~ Cabinet~~] under the provisions of KRS 131.110 from any action of the property valuation administrator made under this section or under KRS 133.110.

Section 127. KRS 133.150 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall equalize each year the assessments of the property among the counties. It shall compare the recapitulation of the property valuation administrator's books from each county with the records of sales of land in such county or with such other information that it may obtain from any source and shall determine the ratio of the assessed valuation of the property to the fair cash value. The ***Department of*** Revenue[~~ Cabinet~~] shall have power to increase or decrease the aggregate assessed valuation of the property of any county or taxing district thereof or any class of property or any item in any class of property. The ***Department of*** Revenue[~~ Cabinet~~] shall fix the assessment of all property at its fair cash value. When the property in any county, or any class of property in any county, is not assessed at its fair cash value, such assessment shall be increased or decreased to its fair cash value by fixing the percentage of increase or decrease necessary to effect the equalization.

Section 128. KRS 133.160 is amended to read as follows:

When it is contemplated by the ***Department of*** Revenue[~~Cabinet~~] that it will be necessary to raise the assessed valuation of property in any county, it shall give notice of the contemplated action to the county judge/executive, the superintendent of any school district affected by such action, the mayor of any city which is affected and which has adopted the assessment, and to the taxpayers of that county through the county judge/executive, who shall post the notice sent him on the courthouse door and certify to the ***Department of*** Revenue[~~Cabinet~~] that this has been done, and it shall fix a time and place for a hearing which may be in Frankfort or any convenient place in or nearer the county seat.

Section 129. KRS 133.170 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~Cabinet~~] has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky Board of Tax Appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the ***department's***[~~cabinet's~~] aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky Board of Tax Appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the ***department's***[~~cabinet's~~] action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the ***Department of*** Revenue[~~Cabinet~~] and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the ***Department of*** Revenue[~~Cabinet~~] and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky Board of Tax Appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the ***Department of*** Revenue[~~Cabinet~~] under the provisions of KRS 133.150.

Section 130. KRS 133.180 is amended to read as follows:

When the ***Department of*** Revenue[~~Cabinet~~] has completed its action on the assessment of property in any county, it shall immediately certify to the county clerk the assessment and the amount of taxes due. The ***Department of*** Revenue[~~Cabinet~~] shall charge the amount of taxes due from the county to the sheriff of the county. When any item of property is in process of appeal and the valuation has not been finally determined, the certification of such property shall be based on the valuation claimed by the taxpayer as the true value. The county clerk shall affix the certification to the tax books and enter it of record in the order book, and it shall be the sheriff's or collector's warrant for the collection of taxes.

Section 131. KRS 133.181 is amended to read as follows:

If the ***Department of*** Revenue[~~Cabinet~~], in making its equalization of the property in any county in accordance with the provisions of KRS 133.150, causes any increase or decrease to be made in the value of any property, the county clerk shall correct the tax books to comply with the final certification of the assessment by the ***department***[~~cabinet~~]. As compensation for his services, the clerk shall receive the same compensation per day that he receives for serving as clerk of the board of assessment appeals for as many days as are necessary to make the corrections but not to exceed a total of ten (10) days. One-half (1/2) of such amounts shall be paid out of the county levy and one-half (1/2) out of the State Treasury. Such sums shall be paid at the same time and in the same manner as is the clerk's compensation for preparing the tax bills under KRS 133.240(2).

Section 132. KRS 133.185 is amended to read as follows:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the ***Department of*** Revenue[~~ Cabinet~~] to the county clerk as provided in KRS 133.180.

Section 133. KRS 133.220 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls.

(2) After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars ($100) worth of property for state, county, and school purposes; the name of the taxpayer and his mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; and the total amount of taxes due the state, county, school fund, and other levies. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.

(3) Tax bills prepared in accordance with the certification of the ***Department of*** Revenue[~~ Cabinet~~] shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.

(4) Upon delivery to him of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school fund, and other levies, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date.

(5) All notices returned as undeliverable shall be submitted no later than the following work day to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses if the information to do so is available and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the corrected notices to the sheriff or collector on a daily basis as corrections are made, but no later than fifteen (15) days after receipt. Uncorrected notices shall be submitted to the ***department***[~~cabinet~~] by the property valuation administrator.

Section 134. KRS 133.225 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall draft, and the sheriff shall mail with the property tax bills annually, an explanation of the provisions of Acts 1979 (Ex. Sess.) ch. 25.

Section 135. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted property by the property valuation administrator or by the ***Department of*** Revenue[~~ Cabinet~~], the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted taxes. The omitted tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted tax bill to the sheriff or collector as soon as the omitted property has been finally assessed.

Section 136. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents ($0.30) for calculating the state, county, and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the ***Department of*** Revenue[~~ Cabinet~~] for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the levy and the other one-half (1/2) out of the State Treasury. The county clerk shall certify the allowance to the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, consolidated local government, urban-county government, school, and special district tax for each individual motor vehicle taxpayer, based upon certification from the ***Department of*** Revenue[~~ Cabinet~~] of the number of accounts as of January 1 each year.

Section 137. KRS 133.250 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall conduct sales-assessment ratio studies for each county and shall submit the ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission of the property valuation administrator's final recapitulation to the ***department***[~~cabinet~~] as provided for in KRS 133.125, whichever date is later. Randomly selected sample appraisals shall be conducted by the ***Department of*** Revenue[~~ Cabinet~~] for each class of real property in each county no less than once every two (2) years to supplement sales data used in the

assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the ***Department of*** Revenue[~~ Cabinet~~] as provided for in KRS 133.125.

(3) By January 30 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by assessment ratio studies which shall be conducted by the ***Department of*** Revenue[~~ Cabinet~~].

Section 138. KRS 133.990 is amended to read as follows:

(1) The failure of any member to be in attendance promptly on the days fixed for the sessions of the county board of assessment appeals without reasonable excuse shall subject him to a fine of not exceeding twenty-five dollars ($25).

(2) Any county clerk who fails to make out, for the use of the sheriff or collector, the book or books of tax bills and stubs provided in KRS 133.220, and deliver same to the sheriff or collector on or before September 15 of each year, shall pay a penalty of ten dollars ($10) for each day's delay which must be deducted by the ***Department of*** Revenue[~~ Cabinet~~] from such sum, or sums, as may be due, or become due from the Commonwealth for official duties, and the date of the receipt required to be signed by the sheriff or collector by the provisions of KRS 133.220 shall be prima facie evidence of the delivery of same.

(3) Any county clerk who, without reasonable excuse, fails to return to the ***Department of*** Revenue[~~ Cabinet~~] copies of any books, papers, or records required by it in the manner and at the time prescribed by law, shall, upon conviction, be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each offense.

Section 139. KRS 134.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of revenue.

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(6) "Tax claim" includes, in addition to the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in subsection (1) of KRS 134.420 and other such items or expenses that have become or are by reason of the delinquent tax bill proper legal charges imposed by this chapter against the delinquent taxpayer at any given time.

(7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.

(8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.

Section 140. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by November 1 after they become due in any year shall be entitled to two percent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every payment shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a rubber stamp, indicating the amount so paid to the sheriff. The sheriff or any authorized collector of property taxes may accept payment of taxes due by any commercially acceptable means, including credit cards.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on January 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of ten percent (10%) on the taxes due and unpaid; except that taxes which became delinquent on January 1 shall be subject to a penalty of only five percent (5%) on the taxes due and unpaid, if paid on or before the last day of January. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

(5) When the tax collection schedule is delayed, through no fault of the taxpayers, the ***Department of*** Revenue[~~ Cabinet~~] may institute a revised collection schedule. The revised collection dates shall allow a two percent (2%) discount for all payments made within thirty (30) calendar days of the date the tax bills were mailed. Upon expiration of the time period to pay the tax bill with a discount, the face amount of the tax bill shall be due during the next thirty (30) days. If the time

period to pay the face amount has lapsed, a five percent (5%) penalty shall be added to the tax bill for payments made during the next thirty (30) day period. Upon expiration of this time period, a ten percent (10%) penalty shall be added to all tax bills paid thereafter.

(6) If, upon expiration of the five percent (5%) penalty period, the real property tax delinquencies of the sheriff exceed fifteen percent (15%), the sheriff shall be required to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following the expiration of the five percent (5%) penalty period, the ***commissioner***[~~secretary of the cabinet~~] may act in the name of and on behalf of the cities, counties, schools, and other taxing districts to collect the delinquent taxes. In the performance of any tax collection duties undertaken by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. If the ***department***[~~cabinet~~] assumes collection duties, all fees and commissions which the sheriff would have been entitled to receive from the taxing districts after the expiration of the five percent (5%) penalty period shall be paid to the ***department***[~~cabinet~~] for deposit in the delinquent tax fund as provided in KRS 134.400.

Section 141. KRS 134.040 is amended to read as follows:

If a tax is paid before the taxpayer's liability has been ascertained or before the taxpayer is notified thereof, the acceptance and deposit into the State Treasury of the remittance by the ***Department of*** Revenue[~~ Cabinet~~] shall not imply that the payment was the correct amount due, nor preclude assessment and collection of additional taxes found to be due, or refund of any part of the amount paid that may be in excess of that determined to be due.

Section 142. KRS 134.050 is amended to read as follows:

(1) Every tax imposed by law and all increases, penalties and interest thereon shall be a personal debt of the person liable for the payment thereof, from the time the tax becomes due until paid. In addition to all other remedies, the collection thereof may be enforced in the same manner as the collection of any other debt due the state. The penalty prescribed by KRS 135.060, when applicable, shall be applied to the amount of the original tax, interest and penalties.

(2) The ***department***[~~Revenue Cabinet~~] may refuse to accept a personal check as remittance in payment of taxes due or collected by any person who has ever tendered the state a check which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

Section 143. KRS 134.148 is amended to read as follows:

(1) The sheriff may, at the time he settles his accounts with the fiscal court, pursuant to KRS 134.310 provide the county clerk with a list of taxpayers whose tax bills on motor vehicles or trailers are delinquent.

(2) The county clerk may file a lien on such vehicle or trailer on behalf of the state, county, city, special district and school district and record such lien on the face of the certificate of title and registration and in the manner in which lis pendens are recorded. Delinquent tax bills shall be subject to interest at the rate of one percent (1%) per month or fraction thereof from the date the lien is filed until paid.

(3) (a) No licensed automobile dealer shall be responsible for any tax lien not recorded on the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer.

(b) In the event that a tax lien was recorded on the clerk's copy of the certificate of title and registration, but not on the copy of the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer, prior to the purchase of the motor vehicle or trailer by the dealer, upon presentation of proof to the county clerk that such was the case, the county clerk shall file such proof with his copy of the certificate of title and registration and shall remove the lien.

(4) In the event that a bona fide purchaser for value without notice purchases a motor vehicle or a trailer on which no lien has been filed on the certificate of title of such motor vehicle or trailer as provided for in subsection (2) of this section, such person shall not be held responsible for paying delinquent ad valorem taxes or lien fees on the certificate of title of such motor vehicle or trailer if such lien was placed on the certificate of title after same person's purchase of the motor vehicle or trailer.

(5) Upon proof being presented to the county clerk that the motor vehicle or trailer was transferred to a bona fide purchaser for value without notice prior to the placing of a lien on a certificate of title and registration, the clerk shall file such proof with the certificate of title and registration and shall then remove the lien.

(6) The lien filing fee, as provided for in KRS 64.012, shall be added to the tax bill and be payable with the lien releasing fee by the registrant at the time of payment of the delinquent tax to the county clerk.

(7) The county clerk shall give a receipt to the registrant and make a report to the ***Department of*** Revenue[~~ Cabinet~~], the county treasurer and the other proper officials of all taxing districts that are due proceeds from the payment on the last working day of each month. He shall pay to the ***Department of*** Revenue[~~ Cabinet~~] for deposit with the State Treasurer all moneys collected by him due to the state, to the county treasurer, all moneys due to the county and to the proper officials of all other taxing districts, the amount due each district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies or parties entitled thereto.

Section 144. KRS 134.150 is amended to read as follows:

No field agent, accountant or attorney of the ***Department of*** Revenue~~[Cabinet]~~ may collect any money due the state, or any county, school or other taxing district without specific written authority from the ***commissioner***~~[secretary of revenue]~~.

Section 145. KRS 134.160 is amended to read as follows:

(1) The sheriff shall keep his office at the county seat, except in counties where he has an office already established in a city other than the county seat, in which case he shall continue his office at the place now established. The fiscal court shall provide him with a room or rooms for an office, with a vault or place of safety in which to keep the records of his office. He shall keep his office open for the collection of taxes at all reasonable times, except on Sundays and legal holidays.

(2) The sheriff shall keep an accurate account of all moneys received by him, showing the amount, the time when and the person from whom received, and on what account. He shall also keep an accurate record of all disbursements made by him, showing the amount, to whom paid, the time of payment, and on what account. He shall so arrange and keep his books that the amounts received and paid on account of separate and distinct appropriations shall be exhibited in separate and distinct accounts. He shall balance his books on the first day of each month, so as to show the correct amount on hand belonging to each fund on the day the balance is made. The books shall be paid for as other county records.

(3) The sheriff shall keep his books and accounts in the manner and form required by the ***Department of*** Revenue~~[Cabinet]~~.

(4) The books of the sheriff shall be open at all times to the inspection of the Auditor of Public Accounts, the ***Department of*** Revenue~~[Cabinet]~~, the fiscal court or any member thereof, the Commonwealth's and county attorneys, and any taxpayer or person having any interest therein.

Section 146. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the ***Department of*** Revenue~~[Cabinet]~~, sheriff, or collector, remit payment for delinquent taxes due on that property. However, the amount remitted shall not exceed the total amount being held. The delinquent tax payment may be deducted from the royalties or payments owed to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 147. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records, and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of seventy thousand (70,000) or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the ***Department of*** Revenue~~[Cabinet]~~. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes. If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

(3) Each outgoing sheriff shall make a final settlement with the ***Department of*** Revenue~~[Cabinet]~~ and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies, and employees paid in accordance with the schedule of the previous year

or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 148. KRS 134.240 is amended to read as follows:

The bond of the sheriff executed pursuant to KRS 134.230 shall be, in substance, as follows: "We, A B (sheriff), and C D and E F, his sureties, bind and obligate ourselves, jointly and severally, to the Commonwealth of Kentucky, that the said A B (sheriff), shall faithfully perform his duties. Witness our signature this .... of ....." The bond shall be executed in duplicate. One (1) duplicate shall be filed and recorded in the county clerk's office, and the other shall be sent to the ***Department of*** Revenue[~~ Cabinet~~] and filed in its office.

Section 149. KRS 134.270 is amended to read as follows:

Neither the sheriff nor a surety shall be liable for any act or default of the sheriff in connection with his revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the ***Department of*** Revenue[~~ Cabinet~~], the county judge/executive, the county attorney, or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

Section 150. KRS 134.280 is amended to read as follows:

(1) On the failure of the sheriff to execute bond and qualify as provided in KRS 134.230 he shall forfeit his office, and the county judge/executive may appoint a sheriff to fill the vacancy until a sheriff is elected, or it may appoint a collector for the county of all moneys due the state, county or taxing district authorized to be collected by the sheriff, or it may appoint a separate collector of all the moneys due the state, county or any taxing district thereof during the vacancy in the office of sheriff. If the county judge/executive fails for thirty (30) days to appoint a collector of money due the state, the ***Department of*** Revenue[~~ Cabinet~~] may appoint a collector thereof. These collectors shall, within ten (10) days after their appointment, execute bond as required of the sheriff, to be approved by the county judge/executive, and if the bond is not executed within that time the appointment of another collector may, in like manner, be made, but such collector shall be required to give bond for and collect only the taxes or moneys provided for in the order of the county judge/executive appointing him.

(2) A sheriff who forfeits his office under subsection (1) of this section, or who resigns his office, shall not be appointed deputy sheriff or collector for the county, or elisor, deputy collector or deputy elisor.

Section 151. KRS 134.290 is amended to read as follows:

(1) In counties where the state taxes charged to the sheriff for the year are less than seventy-five thousand dollars ($75,000), he shall be allowed by the ***Department of*** Revenue[~~ Cabinet~~], for collecting such taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than one hundred fifty thousand dollars ($150,000), he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(3) Notwithstanding the provisions of subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

(4) Notwithstanding the provisions of subsection (2) of this section, the county treasurer shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (2) of this section, whichever is greater.

Section 152. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court after making settlement with the ***Department of*** Revenue[~~ Cabinet~~]. The fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The ***department***[~~cabinet~~], at the request of the fiscal court or any school district, may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the ***department***[~~cabinet~~] may initiate the local settlement on behalf of the local district. Upon completion of the local settlement, the ***department***[~~cabinet~~] may receive reasonable reimbursement for expenses incurred. The report of the state and local settlement shall be filed in the county clerk's office and approved by the county judge/executive no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections. Objections shall be submitted to the county judge/executive within fifteen (15) days of the filing of the settlement in the clerk's office. If no objections are submitted, the settlement will become final.

(3) If the county judge/executive denies the objections, the sheriff may institute an action in Circuit Court within fifteen (15) days of receipt of the denial for review of the settlement and objections. Upon review, the Circuit Court shall issue its determination and the settlement shall become final. The final settlement shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810.

(4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300, and shall pay any additional amounts charged against him as a result of the settlements. If the sheriff fails to remit amounts charged against him the ***department***~~[cabinet]~~ may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts to collect the taxes. In the performance of any tax collection duties undertaken by the ***department***~~[cabinet]~~, the ***department***~~[cabinet]~~ shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the ***department***~~[cabinet]~~.

(5) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

(7) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

Section 153. KRS 134.320 is amended to read as follows:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the ***Department of*** Revenue~~[Cabinet]~~ to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the ***department***~~[cabinet]~~ the amount of all state taxes he has collected during the preceding month, or for such period as the ***department***~~[cabinet]~~ may require.

(2) The sheriff shall, at the time of making this report, pay to the ***department***~~[cabinet]~~, for deposit with the State Treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The ***department***~~[cabinet]~~ may report to the grand jury of Franklin County any sheriff failing to report as required. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the ***department***~~[cabinet]~~ to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof plus interest at the legal rate per annum on such taxes. The ***department***~~[cabinet]~~ in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The ***Department of*** Revenue~~[Cabinet]~~ may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) whenever, in its judgment, good cause therefor exists. The extension shall be in writing, and the ***department***~~[cabinet]~~ shall keep a record of such extensions. The extension when granted shall suspend the penalty and interest provided by subsection (3) for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

Section 154. KRS 134.325 is amended to read as follows:

Each sheriff shall conduct the sale of delinquent tax bills required by KRS 134.430 and make his records available for settlement with the ***Department of*** Revenue~~[Cabinet]~~ for all taxes collected for the Commonwealth before April 30 of each year during his term of office. In the event that any sheriff resigns, dies, or otherwise vacates his office, the books and records shall be made available within thirty (30) days from the date that the office is vacated. Any sheriff who fails to make the settlement books and records available or fails to remit any amounts which are due to the taxing districts as required by law shall be subject to indictment in the county of his residence and fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

Section 155. KRS 134.330 is amended to read as follows:

(1) No tax bill or tax book shall be delivered to the sheriff during the second or any subsequent calendar year of the sheriff's regular term until he exhibits a quietus from the ***Department of*** Revenue~~[Cabinet]~~ and from the fiscal court of his county for the preceding tax period and his revenue bond, if bonding is required by the fiscal court, for the next tax year.

(2) If the tax records of a county are destroyed by fire, lost, stolen, or mutilated so as to require reassessment of the property in

the county or a recertification of the tax bills, the sheriff shall have five (5) months from the time he receives the recertified tax bills within which to make settlement with the ***department***~~[cabinet]~~ and the fiscal court, and to receive his quietus from the ***department***~~[cabinet]~~ and the fiscal court.

Section 156. KRS 134.340 is amended to read as follows:

(1) The sheriff shall, when he collects money from a delinquent taxpayer, record the tax, interest and penalty on his record book kept for that purpose.

(2) If the sheriff fails to record the money collected from a delinquent taxpayer, or fails to collect the tax due from a delinquent taxpayer if it was collectible by sale or otherwise when it came to his hands, he shall be held liable on his bond for the amount of tax, penalties, interest and costs due from the delinquent taxpayer that was collectible, plus thirty percent (30%) penalty thereon, to be recovered in the Circuit Court of the county in which the tax is due, on motion of the county attorney or agent of the ***Department of*** Revenue~~[Cabinet]~~ in the name of the state. The county attorney shall prosecute all such motions, for which services he shall be entitled to the penalties thereon recovered of the sheriff, but only if the tax, interest, costs, and penalties due are recovered and paid to the officers entitled to receive the same. The sheriff shall have ten (10) days' previous notice of the motion.

Section 157. KRS 134.360 is amended to read as follows:

In making his settlements with the fiscal court and the ***Department of*** Revenue~~[Cabinet]~~, the sheriff shall file a list of uncollectible delinquent taxes, which shall entitle the sheriff to a credit in his official settlement. The sheriff shall also be allowed credit in his official settlement for the tax bills on which certificates of delinquency have properly been issued to the state, county, and taxing districts.

Section 158. KRS 134.390 is amended to read as follows:

A tax bill rendered against omitted property required to be listed with the property valuation administrator or the ***Department of*** Revenue~~[Cabinet]~~ or against an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall become due on the day the bill is prepared, and shall be considered delinquent and subject to a penalty of ten percent (10%) of the tax, penalty and interest due, unless paid within thirty (30) days after it becomes due, except as otherwise provided by law. All provisions of law of the particular taxing district having an interest therein relating to delinquent taxes on the same class of property or taxpayers involved shall apply to the delinquent omitted tax bill unless otherwise provided by law.

Section 159. KRS 134.400 is amended to read as follows:

(1) All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the ***Department of*** Revenue~~[Cabinet]~~, sheriffs, and other state, county, or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall be paid into the State Treasury and credited as provided for the twenty percent (20%) penalty in subsection (2) of this section.

(2) The twenty percent (20%) penalty collected on taxes due the state, county, school, or other taxing district shall be paid into the State Treasury. One-fourth (1/4) of the moneys thus received shall be credited to the general expenditure fund. The remaining three-fourths (3/4) shall also be credited to the general expenditure fund unless the General Assembly, in its biennial branch budget bill, provides that it be credited to a fund to be designated and known as the delinquent tax fund, in which case it shall be so credited and so much thereof as may be necessary shall be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. All salaries, fees, and expenses authorized by the laws relating to the collection of delinquent taxes and the assessment of omitted property, except the fees of county attorneys, shall be payable out of the delinquent tax fund upon certifications or requisitions of the ***commissioner***~~[secretary]~~ of revenue.

Section 160. KRS 134.420 is amended to read as follows:

(1) The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for ten (10) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes. The lien shall include all interest, penalties, fees, commissions, charges, and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county, or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated. Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

(2) If any person liable to pay any tax administered by the ***Department of*** Revenue~~[Cabinet]~~, other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all

penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the ***department***[~~Revenue Cabinet~~] shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

Section 161. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the ***Department of*** Revenue[~~ Cabinet~~] to collect delinquent taxes. If the county attorney has not contracted with the ***Department of*** Revenue[~~ Cabinet~~] to collect delinquent taxes, the ***Department of*** Revenue[~~ Cabinet~~] shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~], and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale, or in a county containing a city of the first class or consolidated local government, within fourteen (14) working days of the sale, and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 162. KRS 134.480 is amended to read as follows:

(1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county, or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county, or taxing district, the assignee shall mark paid in full on the certified copy of the certificate and shall surrender the certified copy of the certificate of delinquency to the person making payment, and if he is the person primarily liable on the certificate he may file it with the county clerk and have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the ***Department of*** Revenue[~~ Cabinet~~] may require. The clerk shall mark the certificate of delinquency paid in full. Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment thereof. The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. Anyone other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county, and taxing district may, by paying a fee of fifty cents ($0.50), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents ($0.50) to the clerk for entering such change on the certificate.

(2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and he shall give a receipt to the payor and make a report to the ***Department of*** Revenue[~~ Cabinet~~], the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. He shall pay to the ***Department of*** Revenue[~~ Cabinet~~] for deposit with the State Treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto. He shall retain ten percent (10%) of the amount due each taxing unit for his services as a fee. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.

(3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county, or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. The clerk may deduct the sum of fifty cents ($0.50) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the time he received it until paid.

(5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 163. KRS 134.500 is amended to read as follows:

(1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The sheriff's add-on fee provided in KRS 134.430, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be excluded from the interest calculation except in counties containing cities of the first class or consolidated local government. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The ***department***[~~cabinet~~] shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the ***department***[~~cabinet~~] shall first offer the collection duties to the county attorney, unless the ***department***[~~cabinet~~] determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the ***department***[~~cabinet~~] on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the ***Department of*** Revenue[~~ Cabinet~~] shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the ***department***[~~cabinet~~] shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the ***department***[~~cabinet~~] may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the ***department***[~~cabinet~~] and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the ***department***[~~cabinet~~] shall assume responsibility for the collection process. In the performance of those duties, the ***department***[~~cabinet~~] shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the ***department***[~~cabinet~~] by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the ***department***[~~cabinet~~] for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the ***commissioner***[~~secretary~~], and the petition may be sent to the ***department***[~~cabinet~~], which may require revision in instances where it deems revision or amendment necessary. The ***department***[~~cabinet~~] shall advise the county attorney in all actions, and may send him special assistance when the ***commissioner***[~~secretary~~] deems assistance necessary. A copy of the judgment shall also be sent to the ***department***[~~cabinet~~]. If the ***department***[~~cabinet~~] sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The ***department***[~~cabinet~~] may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the ***department***[~~cabinet~~] to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the ***department***[~~cabinet~~].

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer

to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 164. KRS 134.510 is amended to read as follows:

(1) After the state, county and taxing districts obtain real property as authorized by KRS 134.490, the designated agent of the ***commissioner***[~~secretary~~] of revenue may advertise and sell at public sale any of the lands, and the ***commissioner***[~~secretary~~] may convey the lands by deed to the purchaser. The ***commissioner***[~~secretary~~] shall, within thirty (30) days from receipt of payment, pay to the county and taxing district the amount of the proceeds due each. The ***department***[~~Revenue Cabinet~~] shall be entitled to an administration fee equal to fifteen percent (15%) of the sale price of the property, which shall be paid into the delinquent tax fund provided for in KRS 134.400.

(2) The sales shall be advertised by a written or printed notice posted at the courthouse door for fifteen (15) days before the date of sale, and by publication pursuant to KRS Chapter 424, and may in addition be advertised by printed handbills posted for fifteen (15) days before the date of sale in three (3) or more conspicuous places in the taxing districts.

(3) Any real property acquired by the state, county and taxing districts pursuant to KRS 134.490 may be redeemed at any time before the ***commissioner***[~~secretary~~] gives a deed to a purchaser, by paying to the county clerk the amount due at the time the property was acquired, plus subsequent costs and interest at the rate of twelve percent (12%) per annum.

Section 165. KRS 134.540 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has reason to believe that any sale made under the authority of Section 32 of Article VIII of Chapter 22 of the Acts of 1906, or Section 3 of Chapter 43 of the Acts of 1908, or Section 2 or 5 of Chapter 21 of the Acts of the first Extraordinary Session of 1938, is for any reason invalid, the invalidity may be alleged in an action to establish the lien provided for in Chapter 152 of the Acts of 1934. The action shall be brought on the relation of the ***commissioner***[~~secretary~~] of revenue, who shall publish notice on the courthouse door for fourteen (14) days before instituting the action, notifying all delinquents that actions will be instituted unless the delinquent taxes against land subject to such actions are paid at once. If the owner does not redeem the land within ten (10) days after the expiration of the fourteen (14) day period, and the ***commissioner***[~~secretary~~] is required to institute action, the state shall be entitled to a fee equal to fifteen percent (15%) of the amount of the taxes, penalties and interest, which shall be paid into the delinquent tax fund provided under KRS 134.400, to be used by the ***Department of*** Revenue[~~ Cabinet~~] to cover the expenses of filing and administering such actions. If the property is redeemed after action is instituted, the fee shall become a part of the redemption price. The ***commissioner***[~~secretary~~] may, if he deems necessary, institute action without giving the notice provided in this section, in which event the fifteen percent (15%) fee shall not apply.

(2) The county attorney shall assist the ***Department of*** Revenue[~~ Cabinet~~] in filing and prosecuting the actions. For these services he shall be entitled to twenty percent (20%) of the taxes, penalties and interest. If he fails or refuses to assist in filing and prosecuting the actions, he shall not be entitled to this fee.

(3) An action shall not be instituted on behalf of the state to establish the lien provided for in Chapter 152 of the Acts of 1934 until after the expiration of the time that must expire before action to recover possession can be instituted.

Section 166. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the ***Department of*** Revenue[~~ Cabinet~~], for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner, as defined in KRS 186.010(7)(a) and (c), of each motor vehicle no later than forty-five (45) days prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 167. KRS 134.825 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of KRS 134.805, 134.810 and 186A.145 and, further, shall reimburse each state agency involved for all ongoing operational costs, including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles, incurred by each such agency in administering the provisions of KRS 134.805, 134.810 and 186A.145.

Section 168. KRS 134.990 is amended to read as follows:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who willfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (5) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection (2) of KRS 134.500 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~], or to make the entries required by law, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

Section 169. KRS 135.040 is amended to read as follows:

(1) On the return of "no property found" on an execution issued upon a judgment in favor of the state, the ***Department of*** Revenue[~~ Cabinet~~] may institute equitable proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, in the name of the state and on the relation of the ***commissioner***[~~secretary~~] of revenue. The choses in action or other equitable estate of the delinquent shall be subjected to the payment of the amount due on any such execution.

(2) On the return to the fiscal court of any tax bill as uncollectible, a like suit may be instituted in the name of the state on the relation of the ***commissioner***[~~secretary~~] of revenue in any court of competent jurisdiction, and the choses in action or other equitable estate of the delinquent may be subjected to the amount due on any such tax bill. In such proceedings attachment may issue and other proceedings may be taken as are authorized on the return of "no property found" on an execution in favor of individuals.

(3) The county attorneys of the respective counties shall assist the ***Department of*** Revenue[~~ Cabinet~~] in prosecuting the actions mentioned in this section.

(4) No action shall be maintained under the provisions of subsection (1) of this section when the last execution issued has been returned "no property found" more than ten (10) years before the institution of the action, nor shall an action be maintained on the uncollectible tax bill under the provisions of subsection (2) of this section more than five (5) years after the date of the return by the sheriff or collector.

(5) Every person against whom an execution has been returned "no property found" and upon which an equitable action is instituted, as provided in subsection (1) of this section, shall be liable for a penalty of twenty percent (20%) of the amount due on the execution. The penalty may be recovered in the action, with the amount due on the execution. The penalty shall go to the delinquent tax fund provided for under KRS 134.400, unless the county attorney assists in the prosecution, in which case one-half (1/2) shall go to him.

Section 170. KRS 135.050 is amended to read as follows:

(1) The ***commissioner***[~~secretary~~] of revenue shall prosecute diligently the collection of all license fees, omitted license,

inheritance, estate, income, excise or franchise taxes, judgments or other moneys, claims or demands due the state from any person.

(2) The ***Department of*** Revenue[~~Cabinet~~] may institute legal proceedings to ascertain the amount of tax due under any statute imposing a license, excise or income tax in favor of the state, and to enforce the collection of the amount due and the penalties and interest thereon, and, in the case of a license or excise tax, to enjoin the operation of the business of the delinquent until the tax is paid.

(3) The ***Department of*** Revenue[~~Cabinet~~] may, at or after the commencement of an action under subsection (2) of this section to collect the amount of license, excise or income tax due and the penalties and interest thereon, have an attachment against the property of the person liable for the tax or a garnishment of his debtors, without the execution of a bond.

Section 171. KRS 135.060 is amended to read as follows:

(1) Employees of the ***Department of*** Revenue[~~Cabinet~~] shall, when directed by the ***commissioner***[~~secretary~~], institute actions in the name of the state, and in the name of any county, school or other taxing district, on relation of the ***commissioner***[~~secretary~~], against any delinquent state, county or district officer or any person to recover taxes or any other money due the state or any county, school or other taxing district.

(2) Employees of the ***Department of*** Revenue[~~Cabinet~~] before instituting or causing to be instituted any action that the ***commissioner***[~~secretary~~] is authorized by law to institute, shall file a copy of same with the ***commissioner***[~~secretary~~], with a verified statement of the facts upon which it is based. No action shall be instituted or caused to be instituted by an employee until it is approved and authorized by the ***commissioner***[~~secretary~~].

(3) In all actions brought under subsection (1) of this section in which a judgment is recovered, the party in default shall, in addition to the amount found to be due the state or any county, school or other taxing district, be adjudged to pay a penalty of twenty percent (20%) on the amount due.

Section 172. KRS 135.080 is amended to read as follows:

(1) When an action is brought in the Franklin Circuit Court against a sheriff or clerk, or against the sureties on his official bond, or against his heirs, devisees or representatives, or against any other person required to pay money into the State Treasury or to do any other act required by law to be done in connection with the payment of money into the State Treasury after it has been collected, the ***Department of*** Revenue[~~Cabinet~~] shall, twenty (20) days before the trial, mail to the defendant in the action, directed to him at the courthouse of his county, a notice in writing stating the amount judgment will be asked for and the time the court will be held. The ***department***[~~cabinet~~] shall file a copy of this notice, with the name of the person to whom sent and the time when and the place where sent, with the clerk of the court, to be filed by him and kept with the papers in the action.

(2) The court, without further notice to the parties, shall proceed with the action. The ***department***[~~cabinet~~] shall file with the clerk of the court a memorandum of the names of the parties, the amount due from each defaulter against whom judgment is demanded, and a copy of the bond if any. The clerk shall docket the action in the order in which the names stand on the memorandum.

(3) Judgments, when given against the defendants in the cases referred to in this section, shall be for the principal due with interest at the rate of ten percent (10%) per annum from the time the amount was due until paid.

Section 173. KRS 135.090 is amended to read as follows:

If any of the defendants in an action brought under KRS 135.080 shall, upon oath, deny the execution of the bonds or instruments whereby they are sought to be made liable, a jury, if required, shall be impaneled to try the facts. All other facts may be tried by the court. Nothing but a receipt from the State Treasurer for the payment of the taxes or money claimed shall be admitted on the trial, except orders of the court and receipts in pursuance thereof, the records of the ***Department of*** Revenue[~~Cabinet~~] and the State Treasurer, and the delinquent list. No tender of payment nor any offset shall be pleaded or given in evidence.

Section 174. KRS 135.100 is amended to read as follows:

(1) Judgments in the name of the state or county against sheriffs and other public collectors, their sureties, or their heirs, devisees or personal representatives, or any of them, shall bind the estate, legal or equitable, of all of the defendants to the judgments from the commencement of the action until satisfied. No execution thereon shall be stayed by replevin or sale on credit, but in all such cases the estate taken in execution shall be sold for money, except that the ***Department of*** Revenue[~~Cabinet~~] may, with the consent of the Attorney General, indorse the right to replevy on the execution where the tax is payable to the ***department***[~~cabinet~~], and a like privilege is given to the sheriff, with the consent of the county attorney, when the taxes are payable to the sheriff.

(2) Any officer who makes a false return on such execution shall be subjected to the payment of the whole amount of the execution and costs, in addition to the penalty provided by subsection (3) of KRS 135.990.

(3) No person shall attempt, by any fraudulent execution, conveyance, encumbrance or otherwise, to stop or injure the sale of the estate under the execution.

Section 175. KRS 135.120 is amended to read as follows:

When the property of the defendant in execution, upon a judgment against a defaulting public officer, is encumbered by a previous bona fide mortgage, deed of trust or other encumbrance or prior lien, the officer shall, if no other property is found upon which to levy the execution, levy it upon the encumbered property and return the same. He shall make return of all the facts known to him, giving the date and consideration of the instrument creating the lien, to whom made, when recorded, the evidences of any prior lien, and the names of the parties who claim the same. Proceedings may be instituted by the sheriff or the ***Department of*** Revenue[~~ Cabinet~~], in the name of the state, in the county where the property is located, to have the property sold, the claims and demands, if just, satisfied, all encumbrances removed, and the proceeds of the sale of the property rightfully applied.

Section 176. KRS 135.130 is amended to read as follows:

(1) If return is made on an execution against a sheriff or other public defaulter to the state and his sureties that there was no sale of personal property for the want of bidders, the ***Department of*** Revenue[~~ Cabinet~~] may direct the property levied upon to be removed from county to county for sale, as often as may be necessary, the cost of removal to be paid out of the sale of the estate as other costs. The officer who levied the execution may sell the property in any county to which it is so removed. If real property is levied upon, the place of sale may be changed to another county, and the officer may there sell and convey the property as in the county where the levy was made.

(2) The state may have executions in the hands of collecting officers in any number of counties at the same time.

Section 177. KRS 136.030 is amended to read as follows:

(1) Every corporation organized under the laws of this state, or doing business in this state, and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the ***Department of*** Revenue[~~ Cabinet~~] signed by its president, secretary, treasurer, or other chief officer, giving the names and addresses of residents of this state who hold its outstanding bonds as of January 1 previous thereto, and also the transfer of any of its bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(2) Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the ***Department of*** Revenue[~~ Cabinet~~] the following information:

    (a) Name and address of all Kentucky residents whose stocks, bonds, or other securities, excluding stocks and mutual funds, are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid;

    (b) Name of company by whom bonds or other securities were issued;

    (c) Interest rate, maturity date, par value, and number of bonds held, and sufficient information to measure the quantity of other securities; and

    (d) Market value as of the previous January 1.

Section 178. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the ***Department of*** Revenue[~~ Cabinet~~] shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

Section 179. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

    (a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

    (b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

    (c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)(b)2.

(2) An approved company shall:

    (a) Compute the company's total license tax due as provided by KRS 136.070; and

    (b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the

Department of Revenue[~~ Cabinet~~].

(5) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***department***[~~Revenue Cabinet~~] to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 180. KRS 136.073 is amended to read as follows:

(1) Every open-end registered investment company organized under the laws of this state and registered under the Investment Company Act of 1940 shall on or before the fifteenth day of the fourth month following the close of each fiscal year, if the company operates on a fiscal year basis or calendar year, file a report on forms prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and pay directly to the State Treasury a tax of two dollars and ten cents ($2.10) for each one thousand dollars ($1,000) of "average net capital" as computed under subsections (2) and (3) of this section.

(2) The term "net capital" as used in this section means capital stock, surplus, borrowed moneys or any other accounts representing capital of the company less the amount of such capital which by said company is invested in Kentucky municipal securities which are obligations issued by the State of Kentucky, its political subdivisions, and the districts, authorities, agencies and instrumentalities of the state and its political subdivisions, the interest on which is exempt from federal and Kentucky income tax.

(3) The term "average net capital" as used in this section means the average of the net capital of the company as shown on financial statements of the company as of the first and last days of the fiscal or calendar year of the company, whichever is applicable.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall examine and audit each report as soon as practicable after each report is received. Failure to make reports and pay taxes as provided in this section shall subject the company to the same penalties imposed for such failure on the part of other corporations.

Section 181. KRS 136.090 is amended to read as follows:

(1) Corporations liable to taxation under KRS 136.070 shall file with the ***Department of*** Revenue[~~ Cabinet~~] each year, on forms prepared by the ***department***[~~cabinet~~], a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. This report shall give the name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and address of its president and secretary; the name and address of its authorized agent or attorney upon whom process may be executed in this state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged.

(2) The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the ***department***[~~cabinet~~] requires.

Section 182. KRS 136.100 is amended to read as follows:

(1) If the corporation operates on a calendar year basis, the reports required under KRS 136.090 shall be filed on or before April 15 in each year. If the corporation operates on a fiscal year basis, the reports shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the ***Department of*** Revenue[~~ Cabinet~~] on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.

(2) A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the ***department***[~~cabinet~~]. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period.

(3) In any case where two (2) or more corporations merge, consolidate or otherwise combine into a single corporation after the close of the taxable year, but before the beginning of the succeeding taxable year, all factors used to determine the corporation license tax assessment shall be computed on the basis of the consolidated accounting records of such corporations.

Section 183. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns,

uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the ***department***[~~cabinet~~], and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the ***department***[~~cabinet~~] pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the ***department***[~~cabinet~~] shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the ***department***[~~cabinet~~] under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 184. KRS 136.130 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, between December 31, and April 30, following, make and deliver to the ***Department of*** Revenue[~~ Cabinet~~] a report in such form as the ***department***[~~cabinet~~] may prescribe, showing such of the following facts as may be requested by the ***department***[~~cabinet~~]: The name and principal place of business of the corporation; the kind of business engaged in; the amount of capital stock, preferred and common, and the number of shares of each; the amount of stock paid up; the par and fair cash value of the stock; the highest price at which the stock was sold at a bona fide sale within twelve (12) months next before December 31 of the year for which the report is required to be made; the amount of surplus funds and undivided profits; the total amount of indebtedness as principal; the cost and year acquired of all operating property owned, operated, or leased, including property under construction, property held for future use, and the depreciation attributable thereto as of December 31, the cost and year acquired of all nonoperating tangible property and the depreciation attributable thereto; the cost and market value as of December 31 of all intangible property; the value of all other assets; the operating and nonoperating revenues, the net utility operating income before and after depreciation and before and after income taxes, the net income from operations, the net income including income from investments, and income from all other sources for twelve (12) months next preceding December 31 of the year for which the report is required; the amount and kind of operating property in this state, and where situated in each county, city, and taxing district, assessed or liable to assessment in this state, and the fair cash value thereof, the length and description of all the lines operated, owned, or leased in this state and in each county, city, and taxing district; and such other facts as the ***department***[~~cabinet~~] may require.

(2) The report shall cover the period of twelve (12) months ending December 31. The ***department***[~~cabinet~~] may change the date of the reports to conform to any change in date established by federal regulations.

(3) If any corporation is in the hands or under the control of a receiver or other person, by order of a court, the receiver or other person shall make the reports required by this section and by KRS 136.140.

(4) All public service corporations included in KRS 136.120 shall file with the report required by subsection (1) of this section a copy of all reports to their stockholders and a complete copy of their report to the Kentucky regulating authority for the year ending December 31.

(5) The ***Department of*** Revenue[~~ Cabinet~~] may grant an extension of thirty (30) days to file the public service property tax return when, in its judgment, good cause exists. The ***department***[~~cabinet~~] shall keep a record of every extension and the taxpayer shall attach a copy of the approved extension to his return when filed.

(6) A taxpayer may be granted a thirty (30) day extension for filing the public service company property tax return if it requests the extension before the due date of the return and includes with the extension request a report of any increases or decreases in property of fifty thousand dollars ($50,000) or more in any taxing district.

Section 185. KRS 136.132 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, when filing the report required by KRS 136.130, provide to the ***Department of*** Revenue[~~ Cabinet~~] a listing of all motor vehicles and trailers operated, owned, or leased by it which are subject to registration in Kentucky with the latest registration or certificate number issued to such motor vehicle or trailer

and the make, model and year of each vehicle.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall, when valuing the property of corporations or companies assessable by it, value the vehicles at no less than the value used by the property valuation administrator.

(3) In certifying the assessment of property of public service companies subject to local taxation, the ***department***[~~cabinet~~] shall separately certify the amount of the assessment representing the valuation of motor vehicles and trailers or an apportionment thereof.

Section 186. KRS 136.150 is amended to read as follows:

If any corporation fails to report as required by KRS 136.130 and 136.140 on or before April 30 of each year, or May 30 if the ***Department of*** Revenue[~~ Cabinet~~] has granted the corporation an extension, the ***Department of*** Revenue[~~ Cabinet~~] shall ascertain the required facts and values in such manner and by such means as it deems proper, at the cost of the corporation failing to make the report.

Section 187. KRS 136.160 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall determine the fair cash value of the operating property of a domestic public service corporation as a unit. The fair cash value of the operating property shall be equalized.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall determine the fair cash value of the operating property of a foreign public service corporation or a domestic public service corporation with property or routes in Kentucky and outside Kentucky as a unit according to subsection (1). The fair cash value of the operating property everywhere valued as a unit shall be apportioned to Kentucky based on the average of the property factor and the business factor. The fair cash value of the operating property in Kentucky shall be equalized.

   (a) The property factor shall fairly reflect the amount of operating property operated, owned, or leased in Kentucky compared to the total amount of operating property operated, owned, or leased everywhere. An allocable portion of the rolling stock, aircraft, and watercraft of a common carrier shall be included in the operating property, operated, owned, or leased in Kentucky. This factor may be a single factor or an average of several factors.

   (b) The business factor shall fairly reflect the utilization of the operating property operated, owned, or leased in Kentucky compared to the utilization of the operating property operated, owned, or leased everywhere. This factor may be a single factor or an average of several factors.

(3) The nonoperating tangible and nonoperating intangible property of public service corporations whose operating property is valued according to either subsection (1) or (2) shall be valued by the ***Department of*** Revenue[~~ Cabinet~~] in the same manner and according to the same standards as if this property were valued by the property valuation administrator in the county where the property has a taxable situs.

Section 188. KRS 136.170 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall allocate the assessed value of the operating property in this state among the counties, cities, and other taxing districts. The location of operating property and the proportion which the length of line or route operated in such taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the ***Department of*** Revenue[~~ Cabinet~~] may by regulations prescribe; provided, however, that the assessed value of nonoperating tangible property shall be allocated to the county, city, or other taxing district where the property is situated.

Section 189. KRS 136.180 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the ***department***[~~cabinet~~] shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.

(4) The ***Department of*** Revenue[~~ Cabinet~~] shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible

personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due forty-five (45) days from the date of notice and shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~]. The local taxes collected by the ***Department of*** Revenue[~~ Cabinet~~] shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the ***Department of*** Revenue[~~ Cabinet~~] by any local taxing district under the provisions of subsection (4) of this section shall be deducted.

(5) The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the ***department***[~~cabinet~~] shall pay an annual fee to the ***department***[~~cabinet~~] which represents an allocation of ***department***[~~cabinet~~] operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the ***department***[~~cabinet~~] and shall apply to valuations for tax periods beginning on or after December 31, 1981.

Section 190. KRS 136.181 is amended to read as follows:

Boats, tugs, barges, and other watercraft of any nonresident person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be valued by the ***Department of*** Revenue[~~ Cabinet~~] for purposes of taxation and shall be assessed as of January 1 each year by the ***Department of*** Revenue[~~ Cabinet~~]; and the ***department***[~~cabinet~~] shall fairly divide, allocate, and certify such assessments to each county, city, town, or other taxing district within this state, within or through which such route or system is operated, the division, allocation, and certification to be determined in the following manner:

(1) The proportion of the value of the property which the length of the lines or route operated in this state bears to the total length of lines or route operated in this state and elsewhere, shall be considered in fixing the value of the property for taxation in this state. Any other reasonable evidence of value shall be considered in fixing the value, but such evidence must be prescribed by ***department***[~~cabinet~~] regulations;

(2) After ascertaining the portion of the system valuation of such property attributable to this state, the ***Department of*** Revenue[~~ Cabinet~~] shall allocate the value of the property among the counties, cities, towns, and other taxing districts. The proportion which the length of line or route operated in that jurisdiction or taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the ***Department of*** Revenue[~~ Cabinet~~] may by regulations prescribe.

Section 191. KRS 136.182 is amended to read as follows:

On or before March 1, 1955, and each year thereafter, each nonresident person, corporation, partnership or other business association owning or operating boats, tugs, barges, or other watercraft whose route or system is partly within this state and partly within another state or states, shall on forms provided by the ***Department of*** Revenue[~~ Cabinet~~] provide the ***Department of*** Revenue[~~ Cabinet~~] with a detailed description of all such property as well as a detailed description of the entire route or system traversed and such other information as the ***department***[~~Revenue Cabinet~~] may by regulation prescribe.

Section 192. KRS 136.183 is amended to read as follows:

The taxes on the above property shall become due at the same time and shall be subject to the same discount and penalties as provided by KRS 134.020, and shall be collected in the same manner as taxes on other tangible property; except that the state tax on such property shall be collected directly by the ***Department of*** Revenue[~~ Cabinet~~].

Section 193. KRS 136.184 is amended to read as follows:

Any taxpayer who has been assessed by the ***Department of*** Revenue[~~ Cabinet~~] in the manner outlined above shall have thirty (30) days from the date of the ***department's***[~~cabinet's~~] notice of the tentative assessment in which to protest and ask for a change thereof in the manner provided by KRS 131.110.

Section 194. KRS 136.186 is amended to read as follows:

When the ***Department of*** Revenue[~~ Cabinet~~] has made a final determination as to the valuation of any such property owned or operated by such nonresident person, corporation, partnership or other business association, it shall immediately certify the amount thereof to the county clerk of each county in which any such property is liable for taxation. The certification shall be filed by each county clerk in his office and the county clerk shall certify to the proper collecting officer of the county, city, town, or taxing district for collection.

Section 195. KRS 136.1873 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the ***Department of*** Revenue[~~ Cabinet~~] for purposes of taxation as of January 1 each year.

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 196. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses whose route or system is partly within this state and partly within another state or states, shall on forms provided by the ***Department of*** Revenue[~~Cabinet~~] provide the ***department***[~~cabinet~~] with a detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value.

Section 197. KRS 136.1877 is amended to read as follows:

(1) The ***Department of*** Revenue[~~Cabinet~~] shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the ***department***[~~cabinet~~] in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the ***department's***[~~cabinet's~~] notice of the tentative assessment to protest as provided by KRS 131.110.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the ***Department of*** Revenue[~~Cabinet~~].

(4) The ***Department of*** Revenue[~~Cabinet~~] shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5) The local taxes collected by the ***Department of*** Revenue[~~Cabinet~~] shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the ***Department of*** Revenue[~~Cabinet~~] by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

Section 198. KRS 136.190 is amended to read as follows:

(1) The superintendent of schools in each district in which any individual, group of individuals or corporation, operates public utility or other franchise taxpaying property assessed under KRS 136.120 shall, on or before the first day of January, 1957, furnish to the county clerk of the county in which the district is situated, to each franchise taxpayer within the district, and to the ***Department of*** Revenue[~~Cabinet~~], the boundary of his school district. The superintendent of schools in each district in which any franchise-paying corporation, individual, or group of individuals operates shall, on or before the first day of January, 1958, and each year thereafter, furnish to the county clerk, to each franchise taxpayer within the district, and to the ***Department of*** Revenue[~~Cabinet~~], any changes made in the boundary of his school district during the immediately preceding twelve (12) months.

(2) The engineer of cities of the first class and the city clerk of cities of the second, third, fourth, fifth, and sixth classes shall notify the county clerk, each franchise taxpayer within the city, and the ***Department of*** Revenue[~~Cabinet~~] of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

(3) The responsible governing official or the chairman of the governing body of any taxing district other than the county, school district, or city shall notify the county clerk, each franchise taxpayer within the district, and the ***Department of*** Revenue[~~Cabinet~~] of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

Section 199. KRS 136.290 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institutions operating solely in Kentucky shall, during January of each year, file with the ***Department of*** Revenue[~~Cabinet~~] a report containing such information and in such form as the ***department***[~~cabinet~~] may require.

(2) The ***department***[~~cabinet~~] shall fix the total value, as of January 1 of each year, of the capital of each financial institution included in subsection (1) of this section. Capital shall include certificates of deposit, savings accounts, demand deposits, undivided profits, surplus, and general reserves, excepting the share of borrowing members where the amount borrowed equals or exceeds the amount paid in by those members. The ***department***[~~cabinet~~] shall immediately notify each institution of the value so fixed.

Section 200. KRS 136.310 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the ***Department of*** Revenue[~~Cabinet~~] a report containing information and in such form as the ***department***[~~cabinet~~] may require.

(2) The ***Department of*** Revenue[~~Cabinet~~] shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the

department[~~cabinet~~] shall be a three (3) step process as follows:

(a) The total value of deposits maintained in Kentucky less any amounts where the amount borrowed equals or exceeds the amount paid in by those members.

(b) The Kentucky apportioned value of capital shall include undivided profits, surplus, general reserves, and paid-up stock. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3).

(c) The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital. The ***department***[~~cabinet~~] shall immediately notify each institution of the value so fixed.

(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.

(4) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky. The denominator is the average balance of all outstanding loans. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2). However, if the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.

(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120(8)(b) and regulations promulgated thereunder.

(6) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section. The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020. Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.

(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.

Section 201. KRS 136.320 is amended to read as follows:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall value as of January 1 and report to the ***Department of*** Revenue[~~ Cabinet~~] by April 1 each year, on forms prescribed by the ***department***[~~Revenue Cabinet~~], the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts, and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge, or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of the company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) Other information as may be required by the ***Department of*** Revenue[~~ Cabinet~~] to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and other information that may be available, the ***Department of*** Revenue[~~ Cabinet~~] shall value each company's "taxable capital" and "taxable reserves" as follows:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1)(c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) (a) An annual tax for state purposes shall be imposed against the fair cash value of "taxable capital" for calendar years beginning before 2000, at a rate of seventy cents ($0.70) on each one hundred dollars ($100).

(b) An annual tax for state purposes shall be imposed against every company making an election pursuant to KRS

136.335 to be taxed under this section, against the fair cash value of taxable capital for calendar years beginning in 2000 as follows:

1. For calendar year 2000, fifty-six cents ($0.56) on each one hundred dollars ($100);
2. For calendar year 2001, forty-two cents ($0.42) on each one hundred dollars ($100);
3. For calendar year 2002, twenty-eight cents ($0.28) on each one hundred dollars ($100);
4. For calendar year 2003, fourteen cents ($0.14) on each one hundred dollars ($100); and
5. For calendar year 2004 and each calendar year thereafter, one tenth of one cent ($0.001) on each one hundred dollars ($100).

(c) An annual tax for state purposes shall be imposed at a rate of one-tenth of one cent ($0.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves".

(d) Beginning in tax year 2004 an insurer may offset the tax liability imposed under this subsection against the tax liability imposed under subsection (4) of this section.

(4) For calendar year 2000, and each calendar year thereafter, every company subject to the tax imposed by subsection (3) of this section, and making an election pursuant to KRS 136.335 to be taxed under this section, shall pay the following rates of tax upon each one hundred dollars ($100) of premium receipts:

(a) For calendar year 2000, thirty-eight cents ($0.38);
(b) For calendar year 2001, seventy-two cents ($0.72);
(c) For calendar year 2002, one dollar and two cents ($1.02);
(d) For calendar year 2003, one dollar and twenty-eight cents ($1.28); and
(e) For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50).

Every company subject to the tax imposed by this subsection shall, by March 1 of each year, return to the ***Department of*** Revenue~~[Cabinet]~~ a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, premiums received for original insurance, premiums received for renewal, revival, or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance but dividends on accident and health insurance policies may be deducted.

(5) The taxes imposed under subsections (3) and (4) of this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections (6) and (7) of this section.

(6) The county in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(7) The city in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(8) The ***Department of*** Revenue~~[Cabinet]~~ shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county clerk of the county in which the principal office of the company is located the value of "taxable capital" subject to local taxation. The county clerk shall prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(9) Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which the property is located in the same manner and at the same rates as all other property of the same class.

(10) Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the ***Department of*** Revenue~~[Cabinet]~~.

(11) Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

Section 202. KRS 136.330 is amended to read as follows:

(1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the ***Department of*** Revenue~~[Cabinet]~~ a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium

receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.

(2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars ($2) upon each one hundred dollars ($100) of premium receipts.

(b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:

1. For calendar year 2000, one dollar and ninety cents ($1.90) upon each one hundred dollars ($100) of premium receipts;
2. For calendar year 2001, one dollar and eighty cents ($1.80) upon each one hundred dollars ($100) of premium receipts;
3. For calendar year 2002, one dollar and seventy cents ($1.70) upon each one hundred dollars ($100) of premium receipts;
4. For calendar year 2003, one dollar and sixty cents ($1.60) upon each one hundred dollars ($100) of premium receipts; and
5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50) on each one hundred dollars ($100) of premium receipts.

(3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 203. KRS 136.335 is amended to read as follows:

Beginning with calendar year 2000, every life insurance company incorporated under the laws of and doing business in Kentucky shall make an irrevocable election whether to be taxed under the provisions of KRS 136.320 or 136.330. For insurance companies incorporated under the laws of and doing business in Kentucky, prior to January 1, 2000, the election shall be filed with the commissioner of insurance and the ***commissioner***~~[secretary]~~ of the ***Department of*** Revenue~~[Cabinet]~~ on or before January 1, 2000. For insurance companies applying for a certificate to do business in Kentucky as a domestic life insurance company, after January 1, 2000, the election shall be filed with the company's initial application for certificate of authority to do business in Kentucky.

Section 204. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the ***Department of*** Revenue~~[Cabine]~~t a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 205. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the ***Department of*** Revenue~~[Cabinet]~~ on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and 18A.228 shall not be subject to taxation under this section.

Section 206. KRS 136.360 is amended to read as follows:

Every stock insurer other than life doing business in this state shall pay to the ***Department of*** Revenue~~[Cabinet]~~ on or before the first day of March of each year, for the purpose of defraying the expenses authorized by KRS Chapter 227, and KRS Chapter 304, Subtitle 24, three-fourths of one percent (0.75%) of all amounts paid to such insurance company or its representative, whether such payments are designated as premiums or otherwise, during the previous calendar year for fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages other than life and disability insurances. In computing such amounts there shall be deducted amounts refunded on policies canceled or not taken, and dividends paid or credited to policyholders. All amounts so collected shall be deposited in the general expenditure fund in the State Treasury.

Section 207. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS Chapter 304, shall pay to the ***Department of Revenue***[~~revenue cabinet~~] on or before March 1 of each year a tax of two percent (2%) of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one percent (0.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 208. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the ***Department of*** Revenue[~~ Cabinet~~] a license tax of two dollars ($2) upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

Section 209. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the ***Department of*** Revenue[~~ Cabinet~~], on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the ***Department of*** Revenue[~~ Cabinet~~] all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the ***commissioner***[~~secretary~~] of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the ***commissioner***[~~secretary~~] of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the ***commissioner***[~~secretary~~] of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the ***commissioner***[~~secretary~~] of revenue shall advise the commissioner of insurance of the new rate and the commissioner shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and

agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Department of Insurance shall provide the ***Department of*** Revenue~~[Cabinet]~~ with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the ***Department of*** Revenue~~[Cabinet]~~ shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The ***Department of*** Revenue~~[Cabinet]~~ shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the ***department***~~[cabinet]~~ shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 210. KRS 136.410 is amended to read as follows:

(1) Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the ***Department of*** Revenue~~[Cabinet]~~ a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

(2) In addition to the requirements of subsection (1) of this section, a copy of the statement of all amounts paid to the bail bondsman or his representatives, whether designated as premiums or otherwise, shall be filed with the commissioner of insurance at the same time the bail bondsman files his report of assets and liabilities as required by KRS 304.34-050(1).

Section 211. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;

(2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;

(3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;

(4) "***Department***~~[Cabinet]~~" means the ***Department of*** Revenue~~[Cabinet]~~;

(5) "Commercial domicile" means:

  (a) The location from which the trade or business is principally managed and directed; or

  (b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

(6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;

(7) "Credit card" means credit, travel, or entertainment card;

(8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;

(9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;

(10) "Financial institution" means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 287.135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(a) "Gross rents" includes but is not limited to:

1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;

(b) The following are not included in the term "gross rents":

1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not under the control of the financial institution; and

4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;

(12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;

(13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;

(14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;

(15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;

(16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;

(17) "Principal base of operations" means:

(a) With respect to transportation property, the place from which the property is regularly directed or controlled; and

(b) With respect to an employee:

1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or

2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or

3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;

(18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;

(19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;

(20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;

(21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;

(22) "Taxable year" means calendar year 1996 and every calendar year thereafter;

(23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;

(24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and

(25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

Section 212. KRS 136.525 is amended to read as follows:

(1) A financial institution whose business activity is taxable both within and without this Commonwealth shall apportion its net capital pursuant to the provisions of this section.

(2) Net capital shall be apportioned to this Commonwealth by multiplying total net capital by the apportionment percentage. The apportionment percentage is determined by adding together the financial institution's receipts factor as determined under the provisions of KRS 136.530, property factor as determined under the provisions of KRS 136.535, and payroll factor as determined under the provisions of KRS 136.540 and dividing the sum by three (3). If one (1) of the factors is missing, the two (2) remaining factors are added and the sum is divided by two (2). If two (2) of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero (0), but it is not missing merely because the numerator is zero (0).

(3) Each factor shall be calculated by the method of accounting used by the financial institution for the taxable year.

(4) If the apportionment provisions of KRS 136.500 to 136.575 do not fairly represent the extent of the financial institution's business activity in this Commonwealth, the financial institution may petition for or the ***department***[~~cabinet~~] may require, in respect to all or any part of the financial institution's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors which will fairly represent the financial institution's business activity in this Commonwealth; or

(d) The employment of any other method to effectuate an equitable apportionment of the financial institution's net capital.

Section 213. KRS 136.530 is amended to read as follows:

(1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:

(a) Receipts from the lease or rental of real property owned by the financial institution;

(b) Receipts from the lease or rental of tangible personal property owned by the financial institution;

(c) Interest and fees or penalties in the nature of interest from loans secured by real property;

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property;

(e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;

(g) Net gains, but not less than zero (0), from the sale of credit card receivables;

(h) All credit card issuer's reimbursement fees;

(i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;

(j) Loan servicing fees derived from loans secured by real property;

(k) Loan servicing fees derived from loans not secured by real property;

(l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:

1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and

2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;

(m) All receipts derived from sales that would be included in the factor established by KRS 136.070(3)(d)1., 2., and 3.; and

(n) Receipts from services not otherwise specifically listed.

(2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:

(a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.

(b) 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible personal property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.

2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.

2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.

(e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.

(g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.

(k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.

(l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the ***department***~~[cabinet]~~ may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

3. If the financial institution elects or is required by the ***department***~~[cabinet]~~ to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the ***department***~~[cabinet]~~ to use, or the ***department***~~[cabinet]~~ requires, a different method.

4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this

Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(m) The numerator of the receipts factor includes all other receipts derived from sales as determined pursuant to the provisions set forth in KRS 136.070(3)(d)1., 2., and 3.

(n) 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.

2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:

a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net income; or

b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

Section 214. KRS 136.535 is amended to read as follows:

(1) As used in this section:

(a) "Administration" means the process of managing an account. The process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default. The activity is located at the regular place of business that oversees this activity;

(b) "Approval" means the procedure whereby employees or the board of directors of the financial institution make the final determination whether to enter into the agreement. The activity is located at the regular place of business which the financial institution's employees making the final determination are regularly connected with or working out of, regardless of where the services of the employees were actually performed. If the board of directors makes the final determination, the activity is located at the commercial domicile of the financial institution;

(c) "Investigation" means the procedure whereby employees of the financial institution determine the credit worthiness of the customer as well as the degree of risk involved in making a particular agreement. The activity is located at the regular place of business which the financial institution's employees making the investigation are regularly connected with or working out of, regardless of where the services of the employees were actually performed;

(d) "Negotiation" means the procedure whereby employees of the financial institution and its customer determine the terms of the agreement, including the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. The activity is located at the regular place of business which the financial institution's employees are regularly connected with or out of, regardless of where the services of the employees were actually performed;

(e) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower; and

(f) "Solicitation" occurs when:

1. An employee of the financial institution initiates contact with the customer. The activity is located at the regular place of business which the financial institution's employee making the contact is regularly connected with or working out of, regardless of where the services of the employee were actually performed; or

2. The customer initiates the contact with the financial institution. If the customer's initial contact was not at a regular place of business of the financial institution, the regular place of business, if any, where the solicitation occurred is determined by the facts in each case.

(2) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the financial institution that is located or used within this Commonwealth during the taxable year, the average value of the financial institution's real and tangible personal property owned that is located or used within this Commonwealth during the taxable year, and the average value of the financial institution's loans and credit card receivables that are located within this Commonwealth during the taxable year, and the denominator of which is the average value of all such property located or used within and without this Commonwealth during the taxable year. Average value of property is determined under subsection (4) of this section.

(3) (a) The value of real property and tangible personal property owned by the financial institution is the original cost or other basis of property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically-allocated reserve established pursuant to regulatory or financial accounting guidelines which is treated as charged off for federal income tax purposes shall be treated as charged off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(4) The average value of property owned by the financial institution is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two (2). If averaging on this basis does not properly reflect average value, the ***department***[~~cabinet~~] may require averaging on a more frequent basis. The financial institution may request permission from the ***department***[~~cabinet~~] to average on a more frequent basis. When averaging on a more frequent basis is authorized by the ***department***[~~cabinet~~], the same method of valuation shall be used consistently by the financial institution with respect to property within and without this Commonwealth and on all subsequent returns unless the financial institution receives prior permission from the ***department***[~~cabinet~~] or the ***department***[~~cabinet~~] requires a different method of determining average value.

(5) (a) The average value of real property and tangible personal property that the financial institution has rented from another and which is not treated as property owned by the financial institution for federal income tax purposes shall be determined annually by multiplying the gross rents payable during the taxable year by eight (8).

(b) Where the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the ***department***[~~cabinet~~] or by the financial institution when approved in writing by the cabinet. Once approved, the alternative method of valuation shall be used on all subsequent returns unless the financial institution receives prior approval from the ***department***[~~cabinet~~] or the ***department***[~~cabinet~~] requires a different method of valuation.

(6) (a) Except as described in paragraph (b) of this subsection, real property and tangible personal property owned by or rented to the financial institution is considered to be located within this Commonwealth if it is physically located, situated, or used within this Commonwealth.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this Commonwealth. The extent to which an aircraft shall be deemed to be used in this Commonwealth and the amount of value that is to be included in the numerator of this Commonwealth's property factor is determined by multiplying the average value of the aircraft by a fraction the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(7) (a) 1. A loan is considered to be located within this Commonwealth if it is properly assigned to a regular place of business of the financial institution within this Commonwealth.

2. A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the financial institution to a regular place of business without the Commonwealth shall be presumed to have been properly assigned if:

a. The financial institution has assigned, in the regular course of its business, the loan on its records to a regular place of business consistent with federal or state regulatory requirements;

b. The assignment on its records is based upon substantive contacts of the loan to the regular place of business; and

c. The financial institution uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

3. The presumption of proper assignment of a loan provided in subparagraph 2. of this paragraph may be rebutted upon a showing by the ***department***[~~cabinet~~], supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur at the regular place of business to which it was assigned on the financial institution's records. When the presumption has been rebutted, the loan shall then be located within this Commonwealth if the financial institution had a regular place of business within this Commonwealth at the time the loan was made and the financial institution fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan occurred outside this Commonwealth.

(b) For financial institutions with commercial domicile in this Commonwealth as defined in KRS 136.500, it shall be presumed, subject to rebuttal by the financial institution on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this Commonwealth.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis, and consideration shall be given to activities such as the solicitation, investigation, negotiation, approval, and administration of the loan as defined in subsection (1) of this section.

(8) Credit card receivables shall be treated as loans and shall be subject to the provisions of subsection (7) of this section.

(9) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if that loan has a preponderance of substantive contacts to a regular place of business there.

Section 215. KRS 136.545 is amended to read as follows:

(1) On or before the March 15 following each taxable year, a return for the preceding taxable year shall be filed with the ***department***[~~cabinet~~] in the form and manner prescribed by the ***department***[~~cabinet~~], together with payment of any tax due.

(2) A return shall be filed by each financial institution.

(3) The return shall show the amount of taxes for the period covered by the return and other information necessary for the proper administration of KRS 136.500 to 136.575.

(4) The ***department***[~~cabinet~~] shall, upon written request received on or prior to the due date of the return and tax, grant an automatic extension of up to ninety (90) days for the filing of returns. An extension of time to file a return does not extend the payment of tax due, which shall be estimated by the financial institution and paid on or before the date specified in subsection (1) of this section.

(5) If the time for filing a return is extended, the financial institution shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return but not previously paid, from the time the tax was due until the return is actually filed with the ***department***[~~cabinet~~].

Section 216. KRS 136.550 is amended to read as follows:

(1) As soon as practicable after each return is received, the ***department***[~~cabinet~~] shall examine and audit it. If the amount of tax computed by the ***department***[~~cabinet~~] is greater than the amount returned by the financial institution, the excess shall be assessed by the ***department***[~~cabinet~~] within four (4) years from the date prescribed by law for the filing of a return including an extension of time for filing, except as provided in this subsection. A notice of the assessment shall be mailed to the financial institution.

(a) In the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time.

(b) In the case of a return wherein a financial institution understates its net capital or omits from net capital an amount properly includible therein or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net capital stated in the return, the excess may be assessed at any time within six (6) years after the return was filed.

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for the filing shall be considered as filed on the last day. The times provided for in subsection (1) of this section may be extended by agreement between the financial institution and the ***department***[~~cabinet~~].

Section 217. KRS 136.560 is amended to read as follows:

(1) Every financial institution shall keep records, receipts, invoices, and other pertinent papers in the form as the ***department***[~~cabinet~~] may require.

(2) Every financial institution that files the returns required under KRS 136.545 shall keep records for not less than six (6) years from the making of records unless the ***department***[~~cabinet~~] in writing authorizes their destruction at an earlier date.

Section 218. KRS 136.575 is amended to read as follows:

(1) As used in this section, "deposits" means all demand and time deposits, excluding deposits of the United States government, state and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions, and certified and officers' checks.

(2) Counties, cities, and urban-county governments may impose a franchise tax on financial institutions measured by the deposits in the institutions located within the jurisdiction of the county, city, or urban-county government at a rate not to exceed twenty-five thousandths of one percent (0.025%) of the deposits if imposed by counties and cities and at a rate not to exceed fifty thousandths of one percent (0.050%) of the deposits if imposed by urban-county governments. The amount and location of deposits in the financial institutions shall be determined by the method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation. The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as has been utilized in prior periods. Any deviation from prior accounting methods may only be adopted with the permission of the cabinet.

(3) By August 15, 1997, and annually thereafter, each financial institution shall file with the ***department***[~~cabinet~~], on a form prescribed by the cabinet, a report of all deposits located within this Commonwealth as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The ***department***[~~cabinet~~] shall review the report and certify to the local jurisdictions that have enacted the franchise tax by October 1 of each year the amount of deposits within the jurisdiction and amount of the tax due. The local taxing authority

shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.

(4) For calendar year 1996 only, each financial institution shall file with the ***department***[~~cabinet~~] on or before September 15, 1996, a report of all deposits located within this Commonwealth as of June 30, 1996, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The ***department***[~~cabinet~~] shall review the report after being given notice by the local jurisdiction that the tax under this section was enacted during 1996, and shall certify to the local jurisdiction the amount of deposits within the jurisdiction and the amount of tax due by March 1, 1997. The local taxing authority shall issue bills to the financial institution by May 1, 1997, and require payment with a two percent (2%) discount by May 31, 1997, or without discount by June 30, 1997.

(5) The local jurisdiction shall notify the ***department***[~~cabinet~~] of the tax rate imposed upon the enactment of the tax. The local jurisdiction shall also notify the ***department***[~~cabinet~~] of any subsequent rate changes.

Section 219. KRS 137.130 is amended to read as follows:

(1) Every person engaged in the transportation of crude petroleum in this state from receptacles located at the place of production in this state shall be considered a transporter of crude petroleum. Every transporter of crude petroleum shall make a verified report to the ***Department of*** Revenue[~~ Cabinet~~] by the twentieth day of the month succeeding each month in which crude petroleum is so received for transportation, showing the quantity of each kind or quality of crude petroleum so received from each county in this state and the market value of the crude petroleum on the first business day after the tenth day of the month in which the report is made. The report shall show any sales of crude petroleum so received, the quantity of crude petroleum in each sale, the date of each sale, and the market price of the crude petroleum on each date of sale for the preceding month. This report shall be made upon blanks furnished and prescribed by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may require additional reports from time to time, on blanks prepared by it, from all producers and transporters of crude petroleum.

(2) Every person required to report under subsection (1) of this section shall register as a transporter of crude petroleum in the office of the county clerk in each county in which such business is carried on by him, in a book which the ***department***[~~cabinet~~] shall provide, showing the name, residence and place of business of the transporter. The county clerk shall immediately certify to the ***department***[~~cabinet~~] a copy of each registration as made.

Section 220. KRS 137.140 is amended to read as follows:

Every transporter of crude petroleum shall be liable for the taxes imposed under KRS 137.120 on all crude petroleum received by him. He shall collect from the producer, in money or crude petroleum, the taxes imposed. If collection is in crude petroleum, the transporter may sell the same and pay the taxes by check or cash to the ***Department of*** Revenue[~~ Cabinet~~] or sheriff, as provided in KRS 137.150 and 137.160.

Section 221. KRS 137.150 is amended to read as follows:

Any county imposing a tax under KRS 137.120 shall immediately after the levy of the tax give notice thereof to each transporter of crude petroleum registered in the county. The transporter shall, after the first day of the month immediately following such notice, proceed as provided in KRS 137.140 to collect the county tax and pay it to the sheriff of the county in the manner and at the time payment of such taxes is required to be made to the ***Department of*** Revenue[~~ Cabinet~~]. Each county imposing the tax shall, upon the fixing of the levy, certify the same to the ***department***[~~cabinet~~], which shall make the assessment for the county tax in the same manner and at the same value as provided for the state tax, which shall be certified to the county for collection.

Section 222. KRS 137.160 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.

(2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the ***department***[~~cabinet~~] as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The ***department***[~~cabinet~~], in making its assessments, shall take into consideration transportation charges.

(3) The ***department***[~~cabinet~~] shall, by the last day of the month in which the reports are required to be made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the Kentucky board of tax

appeals.

Section 223. KRS 137.180 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall, on or before thirty (30) days following the close of each duly licensed race meeting, furnish the ***Department of*** Revenue[~~ Cabinet~~] a verified report of the number of days on which races were conducted on that race track during the race meeting, together with a statement of its daily mutuel handle for each day during the meeting, and at the same time pay to the state the tentatively correct amount of the license tax apparently due it pursuant to KRS 137.170.

(2) On or before December 31 in each year, each person engaged in the business of conducting a race track shall file a final report with the ***Department of*** Revenue[~~ Cabinet~~] giving in summary form a recapitulation of the information furnished by the previous tentative reports filed during the year, computing the final license tax due the state for the year ending November 30 and showing the amount of tentative license tax actually paid during the year. Any balance of license tax due the state as shown on the final report shall be paid at the same time as the filing. Any overpayment in license tax disclosed by the final report shall, at the option of the taxpayer, be promptly refunded by the state or credited against the license tax to be due from the taxpayer in the following year.

(3) Any person who violates any provision of this section or KRS 137.170 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) upon the unpaid amount from the date prescribed for its payment until payment is actually made to the ***department***[~~cabinet~~].

Section 224. KRS 137.990 is amended to read as follows:

(1) (a) Any person who engages in any business or sells or offers to sell or has on hand for the purpose of sale any article or exercises any privilege for which a license is required or imposed by KRS 137.115 before procuring the license and paying the tax shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each offense, unless otherwise specifically provided;

(b) Any county clerk who violates any of the provisions of KRS 137.115, or any administrative regulation promulgated by the ***Department of*** Revenue[~~ Cabinet~~] thereunder, shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) for each offense; and

(c) Any person who makes a false statement in securing a license under KRS 137.115 shall be deemed guilty of a misdemeanor.

(2) (a) Any person who violates any provision of KRS 137.120 to 137.160 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180; and

(b) Any person who violates any of the provisions of KRS 137.120 to 137.160 may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(3) Any person who violates any of the provisions of KRS 137.170 or 137.180 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. If the offender is a corporation, the principal officer or the officer or employee directly responsible for the violation, or both, shall be punished as provided in this subsection.

Section 225. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Manufacturer" means any person who manufactures or produces cigarettes within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" shall mean a sale to any person for any other purpose other than resale.

(5) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" shall mean and include any stamps, metered impressions or other indicia prescribed by the ***department***[~~cabinet~~] by regulation as a means of denoting the payment of tax.

(8) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, Commonwealth of Kentucky or any of its political subdivisions, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" shall mean any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by him directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where he attaches cigarette tax evidence, or receives untaxed cigarettes.

(10) "Nonresident wholesaler" shall mean any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(11) "Sub-jobber" shall mean any person who purchases cigarettes from a wholesaler licensed under KRS 138.195 on which the Kentucky cigarette tax has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes available to retailers for resale unless such person certifies and establishes to the satisfaction of the ***department***[~~cabinet~~] that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business.

(12) "Vending machine operator" shall mean any person who operates one (1) or more cigarette vending machines.

(13) "Transporter" shall mean any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof.

(14) "Unclassified acquirer" shall mean any person in this state who acquires cigarettes from any source on which the Kentucky cigarette tax has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.

Section 226. KRS 138.165 is amended to read as follows:

(1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.

(2) Whenever any peace officer of this state, or any representative of the ***department***[~~cabinet~~], finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the ***commissioner***[~~secretary~~] of revenue, Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the ***commissioner***[~~secretary~~] of revenue of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the ***commissioner***[~~secretary~~] shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.

(3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the ***department***[~~cabinet~~] finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the ***commissioner***[~~secretary~~] of revenue shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the ***department***[~~cabinet~~] finds any such motor vehicle, he shall immediately seize the motor vehicle and store it in a safe place specified by him. He shall thereafter proceed as provided in subsection (2) of this section and the ***commissioner***[~~secretary~~] of revenue shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the ***commissioner***[~~secretary~~] of revenue for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the owner was without fault in the possession, dispensing or transportation of the untax-paid cigarettes, he shall remit the forfeiture. In the event he determines that the possession, dispensing or transportation of untax-paid cigarettes was willful or intentional he may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by him of not more than fifty percent (50%) of the value of the thing forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.

(6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Board of Tax Appeals in the manner provided by law.

Section 227. KRS 138.207 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may by regulation refund or waive the cigarette tax imposed by the provisions of this chapter on any cigarettes donated to hospitals or other eleemosynary institutions for the benefit of, or for the use of, patients or inmates of such institutions. The ***department***[~~cabinet~~] shall also prescribe the method by which cigarettes donated shall be transferred to any such institutions.

Section 228. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the ***department***[~~cabinet~~] in a manner and form prescribed by the ***department***[~~cabinet~~], supported by proper evidence which in the sole judgment of the ***department***[~~cabinet~~] substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the ***department***[~~cabinet~~], the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

(d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the ***department***[~~cabinet~~]; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the ***Department of*** Revenue[~~ Cabinet~~] from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the ***department***[~~cabinet~~];

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and

(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

Section 229. KRS 138.224 is amended to read as follows:

It shall be presumed that all untaxed motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or administrative regulations promulgated thereunder by the ***Department of*** Revenue[~~ Cabinet~~]. The tax shall be paid by the licensed dealer to the ***department***[~~cabinet~~]. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuels but fails to comply with all statutory and regulatory restrictions applicable to the fuel shall be jointly and severally liable for payment of the tax due on the fuel. A person's liability shall not be extinguished until the tax due has been paid to the ***department***[~~cabinet~~].

Section 230. KRS 138.230 is amended to read as follows:

Every dealer receiving gasoline or special fuel in this state shall keep, and preserve for five (5) years, an accurate record of all receipts and of all production, refining, manufacture, compounding, use, sale, distribution and delivery of gasoline and special fuel, together with invoices, bills of lading and other pertinent records and papers required by the ***Department of*** Revenue~~[Cabinet]~~. Every person purchasing gasoline or special fuel from a dealer for resale shall keep, and preserve for a period of five (5) years, a record of all such gasoline or special fuel so purchased and sold or used, and the amount of tax paid to the dealers as part of the purchase price, together with delivery tickets, invoices, bills of lading and such other records as the ***department***~~[cabinet]~~ shall require.

Section 231. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the ***Department of*** Revenue~~[Cabinet]~~ reports on the forms the ***department***~~[cabinet]~~ may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

(a) Gasoline and special fuels sold to the United States government, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government;

(b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;

(c) Gasoline and special fuels lost through accountable losses;

(d) Gasoline and special fuel exported from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 232. KRS 138.250 is amended to read as follows:

(1) Any person who produces, refines, manufactures or compounds gasoline or special fuel in this state shall, by the twenty-fifth day of each month, file a report with the ***Department of*** Revenue~~[Cabinet]~~, on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit produced, refined, manufactured or compounded, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received and the number of gallons withdrawn at sixty (60) degrees Fahrenheit from refinery storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from refinery storage and shipped to points within this state upon which the tax has not been paid. This report shall give in detail such information as the ***department***~~[cabinet]~~ may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by

water, the name and address of person to whom shipped, the point of shipment, the point of destination and the name of carrier to whom delivered for transportation to destination.

(2) Any person who imports and stores gasoline or special fuel in any marine or pipeline terminal storage in this state, shall by the twenty-fifth day of the month, file a report with the ***Department of*** Revenue[~~ Cabinet~~], on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit unexported and stored, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points within this state, upon which the tax has not been paid. This report shall give in detail such information as the ***department***[~~cabinet~~] may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment and point of destination, and the name of carrier to whom delivered for transportation to destination.

(3) There shall be allowed a monthly deduction for evaporation, shrinkage or unaccountable losses while in storage, of that number of gallons equal to the actual loss of gasoline or special fuel so sustained out of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal, except that such deduction may not in any event exceed three-fourths of one percent of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal. The remaining gasoline and special fuel placed in storage must be fully accounted for as in physical inventory, accountable loss, withdrawn for export or withdrawn from storage and received for taxable purposes.

(4) The number of gallons of gasoline or special fuel added to marine, pipeline or refinery storage shall be determined by the ***department***[~~cabinet~~] by actual measurement of terminal storage tanks in the manner it deems necessary.

Section 233. KRS 138.260 is amended to read as follows:

Every transportation company and every other person transporting gasoline or special fuel from without this state to points within this state, or between points within this state, shall report to the ***Department of*** Revenue[~~ Cabinet~~] on forms prescribed by the ***department***[~~cabinet~~]. The reports shall give the name and address of each person to whom deliveries of gasoline or special fuel have been made, the name and address of the original consignee if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the ***department***[~~cabinet~~] may require relative to the transportation and delivery of such fuel. The reports shall include intracity switching movements in tank cars or otherwise. The reports shall be made under oath and shall be filed by the twenty-fifth day of each month, covering all such deliveries made within this state during the preceding calendar month.

Section 234. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, and handling and reporting the tax, each dealer shall be allowed compensation equal to two and one-fourth percent (2.25%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358. No compensation shall be allowed if the completed tax return and payment are not submitted to the ***Department of*** Revenue[~~ Cabinet~~] within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the ***department***[~~cabinet~~], by the twenty-fifth day of the next month, an estimated tax due amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the report month, shall not be required to file the monthly reports required by this chapter until the last day of the month following the report month, and shall be permitted to claim as a credit against the tax liability shown due on the report the estimated tax due amount so paid.

Section 235. KRS 138.300 is amended to read as follows:

No dealer or other person shall fail or refuse to make the returns and pay the tax prescribed by KRS 138.220 to 138.280, or refuse to permit the ***Department of*** Revenue[~~ cabinet~~] or its representatives appointed by the ***commissioner***[~~secretary~~] of revenue in writing to examine his records, papers, files and equipment pertaining to the taxable business. No person shall make an incomplete, false or fraudulent return, or do or attempt to do anything to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due. No person shall fail to keep and preserve records of gasoline and special fuel manufactured, transported, received, used, sold or delivered or to make reports as required by KRS

138.230 to 138.280.

Section 236. KRS 138.310 is amended to read as follows:

(1) No person shall refine, produce, distill, manufacture, blend, compound, receive, use, sell, transport, store, or distribute any gasoline or special fuel upon which the tax due has not been paid or assumed or engage in the sale, storage or transportation of any gasoline or special fuel within this state upon which the tax has not been paid unless he is the holder of an uncanceled license issued by the ***Department of*** Revenue[~~ Cabinet~~] to engage in the business.

(2) Any transporter, other than a regularly licensed gasoline or special fuel dealer, transporting gasoline or special fuel by motor vehicle shall have plainly painted on the vehicle the name, address, and permit number of the transporter.

(3) Any person who engages in the business of refining, producing, distilling, manufacturing, blending, compounding, receiving, using, selling, transporting, storing, or distributing gasoline or special fuel in this state as a dealer, storage operator, or transporter without holding an uncanceled license to engage in that business, or who without the license, refines, produces, distills, manufacturers, blends, compounds, receives, uses, sells, transports, stores, or distributes any gasoline or special fuel upon which the tax imposed by KRS 138.220 has not been reported and paid, shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 237. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the ***Department of*** Revenue[~~ Cabinet~~] an application in such form and containing such information as the ***department***[~~cabinet~~] may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the Secretary of State of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a bond of the character stipulated and in the amount provided for in KRS 138.330 shall be filed with the ***department***[~~cabinet~~]. No license shall be issued upon any application unless accompanied by this bond.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the ***department***[~~cabinet~~], or if the ***department***[~~cabinet~~] is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the ***department***[~~cabinet~~], the ***department***[~~cabinet~~] may, after a hearing of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the bond having been accepted and approved, the ***department***[~~cabinet~~] shall issue to the applicant a license, subject to cancellation as provided by KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The ***department***[~~cabinet~~] shall keep and file all applications and bonds, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The ***department***[~~cabinet~~] shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

(7) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

Section 238. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the ***Department of*** Revenue[~~ Cabinet~~] a financial instrument in an amount not to exceed three (3) months' estimated liability as computed by the ***department***[~~cabinet~~] or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any financial instrument may be reduced to an amount sufficient in the opinion of the ***department***[~~cabinet~~], considering the financial rating and reputation of the company, to insure payment to the ***department***[~~cabinet~~] of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The financial instrument shall be on a form and with a surety approved by the ***department***[~~cabinet~~]. The dealer or transporter shall be the principal obligor and the state the obligee. The financial instrument shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the financial instrument is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the ***department***[~~cabinet~~] any surety on the financial instrument has become unsatisfactory or unacceptable, the ***department***[~~cabinet~~] may require the licensee to file a new financial instrument with satisfactory sureties in the same amount, failing which the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If a new financial instrument is furnished as provided above, the ***department***[~~cabinet~~]

shall cancel and surrender the financial instrument for which the new financial instrument is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the ***department***[~~cabinet~~] decides that the amount of the existing financial instrument is insufficient to insure payment to the state of the amount of tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the ***department***[~~cabinet~~], file an additional financial instrument in the same manner and form with a surety thereon approved by the ***department***[~~cabinet~~], in any amount determined by the ***department***[~~cabinet~~] to be necessary, failing which the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340.

(4) Any surety on a financial instrument furnished as required by this section shall be released from all liability to the state accruing on the financial instrument after the expiration of sixty (60) days from the date upon which the surety has lodged with the ***department***[~~cabinet~~] a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The ***department***[~~cabinet~~] shall promptly, upon receipt of a request, notify the licensee who furnished the financial instrument, and unless the licensee, before the expiration of the sixty (60) day period, files with the ***department***[~~cabinet~~] a new financial instrument with a surety satisfactory to the ***department***[~~cabinet~~] in the amount and form prescribed in this section, the ***department***[~~cabinet~~] shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If an approved new financial instrument is filed, the ***department***[~~cabinet~~] shall cancel and surrender the financial instrument for which the new bond is substituted.

Section 239. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210(2), or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the ***Department of*** Revenue[~~ Cabinet~~]. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the ***Department of*** Revenue[~~ Cabinet~~]. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the ***Department of*** Revenue[~~ Cabinet~~] to protect the Commonwealth from loss of revenue.

(2) The ***department***[~~cabinet~~] may cancel the license:

(a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or

(b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

Section 240. KRS 138.341 is amended to read as follows:

(1) When gasoline or special fuel on which the tax has been paid pursuant to the provisions of KRS 138.210 to 138.340 has been used for the purpose of operating any aircraft engaged in the transportation of persons or property, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in aircraft motors.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the ***Department of*** Revenue[~~ Cabinet~~] a bond with approved surety in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the ***Department of*** Revenue[~~ Cabinet~~], conditioned upon faithful compliance with this section and KRS 138.342 and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) The right to receive any refund pursuant to subsection (1) of this section shall be assignable by the purchaser to the seller of the gasoline or special fuel if the seller has posted a bond with the ***department***[~~cabinet~~] and the aviation gasoline or special fuel purchased by the assignor is delivered directly into the fuel tank of aircraft owned or operated by him or his authorized agent. Any assignment shall be evidenced by noting upon the face and all copies of the retail sale invoice the following: "TAX REFUND ASSIGNED TO SELLER. Signed: (Purchaser or Agent.)"

Section 241. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless the person is the holder of an unrevoked refund permit issued by the ***Department of*** Revenue[~~ Cabinet~~] before the purchase of the gasoline or special fuel, which permit shall entitle the person to make application for a refund under KRS 138.344 to 138.355. To procure a permit, every person shall file with the ***department***[~~cabinet~~] an application under oath, on forms furnished by the ***department***[~~cabinet~~], setting forth the information incident to the refunding of the tax paid on gasoline or special fuel as the ***department***[~~cabinet~~] may require. The properly completed and signed application shall be filed with the ***department***[~~cabinet~~] on or before the date the permit, if approved by the ***department***[~~cabinet~~], is to become effective.

Section 242. KRS 138.348 is amended to read as follows:

(1) The ***department***[~~cabinet~~] may require any dealer or any dealer's authorized agent to identify refund gasoline or special fuel sold by him by adding thereto any chemical or substance, which shall be furnished by the ***department***[~~cabinet~~] and used in the manner as prescribed by the ***department***[~~cabinet~~].

(2) The refund permit holder shall receive and store all the gasoline and special fuel in containers plainly marked with distinguishing letters "Refund Motor Fuel," or comparable letters prescribed by the ***Department of*** Revenue[~~ Cabinet~~], and shall keep the containers on his premises accessible to agents of the ***department***[~~cabinet~~] and separate from other gasoline and special fuel stored on his premises.

(3) The ***Department of*** Revenue[~~ Cabinet~~] may, within its discretion, issue a refund permit for a portable storage facility if the applicant satisfies the ***department***[~~cabinet~~] that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes, and fueling the vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund is claimed shall keep detailed records of all the motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use the fuel, and other records the ***Department of*** Revenue[~~ Cabinet~~] may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the ***department***[~~cabinet~~] may go upon the premises of any permit holder or of any licensed gasoline or special fuel dealer or his authorized agent to make inspections to ascertain any matter connected with the operation of KRS 138.344 to 138.355 or the enforcement thereof. No agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

Section 243. KRS 138.354 is amended to read as follows:

(1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.

(2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the ***Department of*** Revenue[~~ Cabinet~~] subject to appeal to the Kentucky Board of Tax Appeals as provided by law, and may not be reissued until two (2) years have elapsed from the date of such revocation.

(3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the ***Department of*** Revenue[~~ Cabinet~~] for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky Board of Tax Appeals.

(4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the ***Department of*** Revenue[~~ Cabinet~~] for a period of not more than two (2) years subject to appeal to the Kentucky Board of Tax Appeals. No refund shall be made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

Section 244. KRS 138.355 is amended to read as follows:

If the ***department***[~~cabinet~~] reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the ***department***[~~cabinet~~] to show cause at a public hearing before the ***Department of*** Revenue[~~ cabinet~~] why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky board of tax appeals as provided by law, subject to the condition that he make bond sufficient in the opinion of the ***department***[~~cabinet~~] to protect the Commonwealth from loss of revenue.

Section 245. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who sells gasoline or special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains

from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use gasoline or the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized herein to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth.

(4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The ***Department of*** Revenue[~~ Cabinet~~] may require dealers claiming the credit authorized in this subsection to submit information required by the ***department***[~~cabinet~~] to reasonably protect the revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

Section 246. KRS 138.447 is amended to read as follows:

(1) A dealer may elect to be exempted from the provisions of KRS 138.330, subject to the following provisions:

(a) An election for exemption shall be made on an annual basis and shall be for a calendar year;

(b) At the conclusion of the year, the election for exemption shall continue for the next calendar year unless the dealer notifies the ***Department of*** Revenue[~~ Cabinet~~] of the dealer's intention to void the election for exemption by January fifteenth of the next calendar year; and

(c) If the election for exemption is voided, the provisions of KRS 138.330 immediately apply.

(2) (a) A dealer electing to be exempted from the provisions of KRS 138.330 shall file with the ***department***[~~cabinet~~] a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the ***department***[~~cabinet~~], or five thousand dollars ($5,000), whichever is greater.

(b) The financial instrument shall be on a form and with a surety to do business in this state.

(c) The dealer shall be the principal obligor and the state the obligee.

(d) The financial instrument shall be conditioned upon the prompt filing of true reports and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(3) (a) In addition to the provisions of KRS 138.210 to 138.340 the dealer shall certify to the ***department***[~~cabinet~~] no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month.

(b) The certification shall be submitted via an electronic method acceptable by both the dealer and the ***department***[~~cabinet~~].

(c) By certifying the amount of tax which is to be remitted to the ***department***[~~cabinet~~], the dealer agrees to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

(d) If the dealer fails to certify the amount of tax collected as prescribed by this section or does not perform the electronic fund transfer, the ***department***[~~cabinet~~] may immediately make demand on the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340.

Section 247. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;

(2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;

(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. "Total consideration given" shall not include:

(a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

(b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

(c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;

(10) "Trade-in allowance" means the value assigned by the seller of a motor vehicle to a motor vehicle offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given;

(11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(12) "Retail price" of motor vehicles shall be determined as follows:

(a) For new, dealer demonstrator, previous model year motor vehicles and U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in allowance as attested to in a notarized affidavit. If a notarized affidavit signed by both the buyer and seller is not available to establish total consideration given, "retail price" shall be:

1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or

2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and

3. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

(b) For historic motor vehicles, "retail price" shall be one hundred dollars ($100);

(c) For used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~], "retail price" shall be the average trade-in value given in the reference manual;

(d) For the older used motor vehicles being registered by a new resident for the first time in Kentucky whose values no longer appear in the automotive reference manual, "retail price" shall be one hundred dollars ($100);

(e) For used motor vehicles previously registered in another state or country that were purchased out-of-state by a Kentucky resident who is registering the vehicle in Kentucky for the first time, "retail price" shall be the total consideration given at the time of purchase or at a later date, including the average trade-in value given in the automotive reference manual prescribed by the ***Department of*** Revenue[~~ Cabinet~~] for any vehicle given in trade;

(f) For used motor vehicles previously registered in Kentucky that are sold in Kentucky, and U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles, "retail price" means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller. The trade-in allowance shall be disclosed in the notarized affidavit signed by the buyer and the seller attesting to the total consideration given. If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the ***Department of*** Revenue~~[Cabinet]~~ through the use of the automotive reference manual prescribed by the ***Department of*** Revenue~~[Cabinet]~~;

(g) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the ***Department of*** Revenue~~[Cabinet]~~;

(h) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of this subsection computed as of the date on which the vehicle is transferred; and

(13) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership.

Section 248. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the ***Department of*** Revenue~~[Cabinet]~~ on forms provided by the ***department***~~[cabinet]~~ and on those forms as the ***department***~~[cabinet]~~ may prescribe. The ***department***~~[cabinet]~~ shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the ***Department of*** Revenue~~[Cabinet]~~ may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the ***department***~~[cabinet]~~.

(7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the ***Department of*** Revenue~~[Cabinet]~~ as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the ***Department of*** Revenue~~[Cabinet]~~ as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the ***Department of*** Revenue~~[Cabinet]~~ a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the

case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the ***Department of*** Revenue[~~ Cabinet~~] as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the ***Department of*** Revenue[~~ Cabinet~~] a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 249. KRS 138.4605 is amended to read as follows:

(1) A motor vehicle dealer who operates a service or repair component in his dealership may register a motor vehicle to be used exclusively as a loaner or rental motor vehicle to the customers of this service or repair department. The dealer may pay usage tax on the loaner or rental motor vehicle as provided in KRS 138.460, or, subject to the provisions of this section, may pay a usage tax of twenty-five dollars ($25) per month on the loaner or rental motor vehicle.

(2) A dealer shall pay the usage tax on a loaner or rental motor vehicle in the manner provided by KRS 138.460 unless the dealer shows to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that he is regularly engaged in the servicing or repair of motor vehicles and loans or rents the loaner or rental motor vehicle to a retail customer while the customer's motor vehicle is at the dealership for repair or service.

(3) For a dealer to be eligible to pay the usage tax on a loaner or rental motor vehicle under this section, the dealer shall identify the motor vehicle as a loaner or rental motor vehicle to the ***Department of*** Revenue[~~ Cabinet~~] and shall maintain records, as required by the ***Department of*** Revenue[~~ Cabinet~~], which show all uses of the loaner or rental motor vehicle.

(4) The tax due under subsection (1) of this section shall be remitted to the ***Department of*** Revenue[~~ Cabinet~~] monthly on forms prescribed by and in accordance with administrative regulations promulgated by the ***department***[~~cabinet~~].

(5) Failure of a motor vehicle dealer to remit the taxes applicable to a loaner or rental motor vehicle under this section shall be sufficient cause for the ***Department of*** Revenue[~~ Cabinet~~] to revoke the authority to use that motor vehicle as a loaner or rental motor vehicle and cause the usage tax on that motor vehicle to be due and payable in accordance with KRS 138.460 on the retail price of that motor vehicle when it was first registered as a loaner or rental motor vehicle.

(6) A motor vehicle no longer covered under the loaner permit program shall be taxed in the same manner as motor vehicles under KRS 138.450(12).

Section 250. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the ***Department of*** Revenue[~~ Cabinet~~] all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, ***Department of*** Revenue[~~ Cabinet~~] account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] or his designee. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to deposit or transfer money collected shall not be less than fifty dollars ($50) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The ***department***[~~cabinet~~] may in its discretion grant a county clerk a reasonable extension of time to file his report or make any transfer of deposits as required above. The extension, however, must be requested prior to the end of the seven (7) day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729.

Section 251. KRS 138.490 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall furnish the ***Department of*** Revenue[~~ Cabinet~~], within thirty (30) days after the end of each race meeting, a report of the number of persons subject to the tax levied in KRS 138.480 who enter the grounds or inclosure during the race meeting. At the same time, the person shall pay to the state the correct amount due by reason of the collection of the tax from persons entering the grounds or inclosure of the race track.

(2) Any person who violates any provision of this section or KRS 138.480 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6).

Section 252. KRS 138.530 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made weekly to the ***Department of*** Revenue[~~ Cabinet~~] no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting and accompanied by reports as prescribed by the ***department***[~~cabinet~~]. All funds received by the ***Department of***

Revenue[~~ Cabinet~~] shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission shall weekly, during each race meeting, report to the ***Department of*** Revenue[~~ Cabinet~~] the total amount bet or handled the preceding week and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines, and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 253. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS 137.170, said license may be suspended, revoked or renewal refused by the State Racing Commission upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 254. KRS 138.727 is amended to read as follows:

(1) Nothing in KRS 186.655 to 186.725 shall deny the right of the ***Department of*** Revenue[~~ Cabinet~~] to make audits of a taxpayer's records and accounts, even though the same taxpayer may be or should be a motor carrier and subject to investigation by the Department of Vehicle Regulation.

(2) The Department of Vehicle Regulation shall, upon request of the ***Department of*** Revenue[~~ Cabinet~~], furnish the ***Department of*** Revenue[~~ Cabinet~~] any information which it may have in its records with regard to the administration of KRS 138.655 to 138.725.

(3) The Department of Vehicle Regulation shall not make any refunds to any person or company without inquiring of the ***Department of*** Revenue[~~ Cabinet~~] as to the person or company being indebted to the Commonwealth of Kentucky by reason of any tax liability, and no refunds shall be made if such person or company is indebted in any fashion to the Commonwealth of Kentucky.

Section 255. KRS 138.810 is amended to read as follows:

As used in KRS 138.820 to 138.860:

(1) "Contaminated waste materials" means those materials, in solid, liquid or gaseous form, which are transported or buried with radioactive wastes;

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(3) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation;

(4) "Processor" means any person receiving delivery or any person having an interest or right of occupancy or use in real property or improvements or any person owning, operating or maintaining a radioactive waste disposal site or facility of contaminated waste materials or radioactive waste materials for processing, packaging, storage, disposal, burial or other disposition;

(5) "Radioactive waste disposal site or facility" means any installation constructed, used or placed in operation primarily for disposing of contaminated waste materials or radioactive wastes;

(6) "Radioactive wastes" means any and all material which is radioactive or is contaminated by or with radioactive material including but not limited to any structures used in containing such radioactive wastes; and

(7) "Radioactive material" means any material, solid, liquid or gas, which emits radiation spontaneously.

Section 256. KRS 138.874 is amended to read as follows:

(1) Except as provided in KRS 138.870 to 138.889, no offender shall engage in this state in a taxable activity unless the tax imposed pursuant to KRS 138.872 has been paid as evidenced by the affixing of a tax stamp, label, or other tax indicia to the marijuana or controlled substance as prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The tax shall be due and payable immediately upon the occurrence of the taxable activity in this state. If an offender engages in a taxable activity in this state involving marijuana or a controlled substance on which a tax stamp, label, or other tax indicia evidencing payment of the tax imposed pursuant to KRS 138.872 has not already been affixed, the offender shall immediately permanently affix the required tax stamp, label, or other tax indicia.

(2) Tax stamps, labels, or other tax indicia required to be affixed to marijuana or controlled substances shall be purchased from the ***Department of*** Revenue[~~ Cabinet~~]. The purchaser shall pay one hundred percent (100%) of the face value for each tax stamp, label, or other tax indicia at the time of the purchase. The ***Department of*** Revenue[~~ Cabinet~~] shall maintain an inventory of tax stamps, labels, or other tax indicia in denominations it deems necessary to facilitate compliance by taxpayers with the provisions of this section. No purchaser of tax stamps, labels, or other tax indicia pursuant to this

section shall be required to give his name, address, or otherwise identify himself to the ***Department of*** Revenue[~~ Cabinet~~].

(3) Each tax stamp, label, or other tax indicia shall be used only once and shall expire one (1) year after issuance by the ***Department of*** Revenue[~~ Cabinet~~] to the original purchaser thereof.

Section 257. KRS 138.876 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of KRS 138.870 to 138.889 and may adopt regulations for the administration and enforcement of KRS 138.870 to 138.889. The ***Department of*** Revenue[~~ Cabinet~~] shall adopt a uniform system for providing, affixing, and displaying tax stamps, labels, or other tax indicia required pursuant to KRS 138.874. Payments required by KRS 138.872 shall be made to the ***Department of*** Revenue[~~ Cabinet~~] in the form the ***department***[~~Revenue Cabinet~~] requires to protect the revenues of the Commonwealth.

Section 258. KRS 138.880 is amended to read as follows:

(1) Each Commonwealth's attorney or county attorney in this state who obtains a conviction of, or a guilty or Alford plea from, an offender for violating KRS Chapter 218A shall, within seventy-two (72) hours after the conviction or the plea, notify the ***Department of*** Revenue[~~ Cabinet~~] in writing if the offender has not paid the tax imposed by KRS 138.872 as evidenced by the absence of the tax stamps, labels, or other official tax indicia required to be affixed to the marijuana or controlled substance that was the subject of the conviction or plea. The weight or dosage units prescribed in this subsection shall include the weight of the marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. The notice required in this subsection shall be submitted in the manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall include:

(a) The name, address, and Social Security number of the offender from whom the conviction or plea was obtained;

(b) The type and quantity of the items that were the subject of the conviction or plea;

(c) Any information developed during the course of the investigation regarding any real or personal properties owned by the offender from whom the conviction or plea was obtained; and

(d) Other information the ***Department of*** Revenue[~~ Cabinet~~] may require to facilitate the assessment and collection of the tax due pursuant to KRS 138.872.

(2) To facilitate collection of the tax due pursuant to KRS 138.872, the Commonwealth's attorney or county attorney shall, as an authorized agent of the ***Department of*** Revenue[~~ Cabinet~~], simultaneously file a copy of the notice required pursuant to subsection (1) of this section with:

(a) The county clerk of the county in which the conviction or the guilty or Alford plea was entered;

(b) The county clerk of the county in which the offender resides if different from the county in which the conviction or plea was entered;

(c) The county clerk of any other county in which the Commonwealth's attorney or county attorney reasonably believes the offender from whom the conviction or plea was obtained owns real or personal property; and

(d) Each financial institution or other custodian the Commonwealth's attorney or county attorney reasonably believes possesses any funds, safe deposit box, or other assets owned in whole or in part by the offender from whom the conviction or plea was obtained.

(3) The notice required by subsection (2) of this section shall be a lien in favor of the Commonwealth pursuant to KRS 134.420 to secure payment of the tax, penalty, and interest due. The tax shall be and remain a lien upon the property, and all property subsequently acquired, and may be enforced as other liens on similar property are enforced. The lien may be released only upon written notice from the ***Department of*** Revenue[~~ Cabinet~~] that:

(a) The tax, penalty and interest due pursuant to KRS 138.872 and 138.889 have been paid;

(b) A bond has been given to the ***Department of*** Revenue[~~ Cabinet~~] as provided in KRS 131.150; or

(c) The tax, penalty, and interest are determined by the ***Department of*** Revenue[~~ Cabinet~~] not to be due.

(4) The county clerk recording or releasing a state tax lien pursuant to this section shall be entitled to the fee prescribed therefor by KRS 64.012.

(5) Except as necessary to accept taxes that the offender voluntarily pays under KRS 138.874, the ***Department of*** Revenue[~~ Cabinet~~] shall not require a bond or otherwise attempt to collect the tax due under KRS 138.874 until the offender's taxable activity results in a conviction or a guilty or Alford plea for a violation of KRS Chapter 218A. However, the ***Department of*** Revenue[~~ Cabinet~~] may impose a notice of lien on issuance of a warrant or indictment, which shall be released upon acquittal or dismissal of the case.

Section 259. KRS 138.882 is amended to read as follows:

(1) The tax, penalty, and interest assessed by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 138.872 and 138.889 shall be deemed prima facie valid and correctly determined and assessed. The burden shall be upon the taxpayer in any judicial or administrative proceeding in this state to show their incorrectness or invalidity.

(2) The collection provisions of KRS 131.500, and any other remedy provided by the laws of the Commonwealth for collection of a tax administered by the ***Department of*** Revenue[~~ Cabinet~~], shall apply with respect to the collection of the

tax, penalty, and interest imposed by KRS 138.872 and 138.889, but it shall not be necessary for the ***Department of*** Revenue[~~ Cabinet~~] to await the expiration of the times specified in KRS 131.500 to levy upon and sell any property or rights to property found within the Commonwealth belonging to the offender failing to pay the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

(3) No person shall bring an action in any court to restrain or delay the assessment or collection of any tax, penalty, or interest imposed by KRS 138.872 and 138.889.

(4) Notwithstanding any provision of KRS 138.870 to 138.889, or any other provision of law, collection of any tax, penalty, or interest under KRS 138.872 and 138.889 or imposition of any revenue liens arising as a result of KRS 138.880 shall not interfere with any forfeiture of money or any other type or kind of property under the drug forfeiture laws of this state, or with any distribution of property or funds under the drug forfeiture laws of this state. Regardless of the order in which proceedings are begun, forfeiture of money or any other type or kind of property and distribution of property and funds under the drug forfeiture laws of this state shall take precedence over any proceedings to collect the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

Section 260. KRS 138.884 is amended to read as follows:

For the purpose of determining the correctness of any return; determining the amount of tax that should have been paid; determining whether or not the offender should have made a return or paid tax; or collecting any tax, penalty, or interest under KRS 138.872 and 138.889, the ***Department of*** Revenue[~~ Cabinet~~] may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making any determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the offender or another person. The ***Department of*** Revenue[~~ Cabinet~~] may require the attendance of any person having knowledge or information that may be relevant; compel the production of books, papers, records, or memoranda by persons required to attend; take testimony on matters material to the determination; and administer oaths or affirmations. The ***Department of*** Revenue[~~ Cabinet~~] may issue subpoenas which may be served by authorized agents of the ***Department of*** Revenue[~~ Cabinet~~] to compel the attendance of witnesses or the production of documents, books, papers, records, bank records, and any other writing or memoranda.

Section 261. KRS 138.886 is amended to read as follows:

(1) The provisions of KRS 138.870 to 138.889 shall not inculpate any person or otherwise cause any person to incriminate himself in violation of his constitutional rights and, notwithstanding the exceptions provided in KRS 131.190 or any other law, neither the ***Department of*** Revenue[~~ Cabinet~~] nor any public employee may reveal facts contained in any report required by KRS 138.870 to 138.889, nor shall any information contained in any report filed pursuant to KRS 138.870 to 138.889 be used against an offender in any criminal proceeding, except in connection with a proceeding involving the tax, penalty, or interest due under KRS 138.872 and 138.889, unless the information is independently obtained. Further, possession of any tax stamp, label, or other tax indicia evidencing payment of tax pursuant to KRS 138.874 shall not be used against any person in any criminal proceeding.

(2) Any person violating this section shall be guilty of a Class B misdemeanor.

(3) This section shall not prohibit the ***Department of*** Revenue[~~ Cabinet~~] from publishing statistics that do not disclose the identity of offenders or the contents of particular returns or reports.

Section 262. KRS 139.025 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations providing for the reporting of gross receipts and payment of taxes levied by this chapter on a basis other than accrual.

Section 263. KRS 139.180 is amended to read as follows:

"Taxpayer" means any person liable for tax under this chapter; "***department***[~~cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

Section 264. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property sold by any person for delivery in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.270;

(3) Purchased according to regulations of the ***Department of*** Revenue[~~ Cabinet~~] governing a direct pay authorization; or

(4) Purchased under a form issued pursuant to KRS 139.776 or 139.777.

Section 265. KRS 139.400 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270 or 139.410;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.490; or

(3) Purchased according to regulations of the ***Department of*** Revenue[~~Cabinet~~] governing a direct pay authorization.

Section 266. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the ***department***[~~cabinet~~]. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the ***Department of*** Revenue[~~Cabinet~~];

(b) In making the determinations of eligibility, the ***department***[~~cabinet~~] shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the ***department***[~~cabinet~~];

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the

United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the ***department***[~~cabinet~~];

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(18) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(20) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(21) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;

(22) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and

(23) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.

Section 267. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the ***Department of*** Revenue [~~Cabinet~~]shall certify to the authority and the secretary of the Tourism Development Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5) The ***Department of*** Revenue [~~Cabinet~~]may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue [~~Cabinet~~]to reflect the intent of this section and KRS 148.851 to 148.860.

Section 268. KRS 139.5381 is amended to read as follows:

As used in KRS 139.5382 to 139.5386 and 139.990(5), unless the context requires otherwise:

(1) "***Department***[~~Cabinet~~]" means the Kentucky ***Department of*** Revenue[~~ Cabinet~~];

(2) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication;

(3) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance; and

(4) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

Section 269. KRS 139.5382 is amended to read as follows:

(1) Any motion picture production company that intends to film all, or parts of, a motion picture in Kentucky and desires to receive the credit provided for in KRS 139.5382 to 139.5386 shall, prior to the commencement of filming:

(a) Provide the ***Department of*** Revenue [~~Cabinet~~]with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining such records; and

(b) File an application for the tax credit provided for in KRS 139.5382 to 139.5386 within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~].

(2) To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

(3) The twelve (12) month period, during which expenditures may qualify for the tax credit provided by KRS 139.5382 to 139.5386, shall begin on the date of the earliest expenditure reported.

Section 270. KRS 139.5384 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet~~]shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the same to the secretary of the Finance and Administration Cabinet. In the case of an audit, as provided for in KRS 139.5386, the ***Department of*** Revenue [~~Cabinet~~]shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.

(2) Upon receipt of the certification of the amount thereof from the ***Department of*** Revenue[~~ Cabinet~~], the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit provided in KRS 139.5382 to 139.5386 shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(3) The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.

Section 271. KRS 139.5385 is amended to read as follows:

(1) Any tax credit, or part thereof, paid to a motion picture production company as a result of error by the ***Department of*** Revenue [~~Cabinet~~]shall be repaid by such company to the secretary of the Finance and Administration Cabinet.

(2) Any tax credit, or part thereof, paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company, shall be repaid by such company to the secretary of the Finance and Administration Cabinet, together with interest, at the tax interest rate provided for in KRS 131.010(6).

Section 272. KRS 139.5386 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet~~]may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the ***Department of*** Revenue [~~Cabinet~~]auditors to verify expenditures.

(2) For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company" in KRS 139.5381, the ***department***[~~cabinet~~] may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.

(3) The ***Department of*** Revenue [~~Cabinet~~]shall promulgate appropriate administrative regulations to carry out the intent and purposes of KRS 139.5382 to 139.5386.

Section 273. KRS 139.735 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet~~]shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270 and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the ***Department of*** Revenue [~~Cabinet~~]during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270 and 103 KAR 31.030.

Section 274. KRS 140.040 is amended to read as follows:

(1) Whenever any person shall exercise a power of appointment derived from any disposition of property (whether by will, deed, trust agreement, contract, insurance policy or other instrument) regardless of when made, such appointment shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this chapter shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will of the donee of such power. The time at which such transfer shall be deemed to take place, for the purpose of taxation, shall be governed by the provisions of subsections (2) to (4) of this section.

(2) In the case of a power of appointment which passes to the donee thereof at the death of the donor, under any instrument, and if the donor dies on or after April 24, 1936, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus. The value of the property to which the power of appointment relates shall be determined as of the date of the death of the donor and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donor. The determination of the applicable rates and exemptions (in effect at the death of the donor) shall be governed by the relationship of the beneficiary to the donee of the power of appointment. In the event the payment of the tax at the death of the donor should operate to provide an exemption for any beneficiary of a donee not authorized by KRS 140.080, then such exemption shall be retrospectively disallowed at the time of the death of the donee. It is further provided that the remainder interest passing under the donee's power of appointment, whether exercised or not, shall be added to and made a part of the distributable share of the donee's estate for the purpose of determining the exemption and rates applicable thereto.

(3) In all cases other than that described in subsection (2) the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donee. In such cases, the value of the property to which the power of appointment relates shall be determined as of the date of the death of the donee and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donee. The determination of the applicable rates and exemptions (in effect at the death of the donee) shall be governed by the relationship of the beneficiary to the donee of the power of appointment.

(4) The provisions of subsection (2) shall not preclude the taxation, at the death of the donee, of any transfer made by means of a power of appointment if such transfer was not in fact reported to or a tax assessed thereon by the ***Department of*** Revenue [~~Cabinet~~]within the period of limitation prescribed by KRS 140.160. If the transfer by the power of appointment is not so reported or a tax assessed thereon, the period of limitation prescribed in KRS 140.160 shall not begin to run until the death of the donee of such power.

(5) The amendments to this section, adopted by the 1948 General Assembly, shall apply to all powers of appointment whether created before or after the effective date of said amendments. It is the declared intention of the General Assembly to impose a tax upon every transfer of property by means of a power of appointment, regardless of when or how created, and it is the declared intention of the General Assembly that the use of the power of appointment device shall not permit the transfer of property, to which such a power relates, to escape thereby the payment of state inheritance taxes.

Section 275. KRS 140.080 is amended to read as follows:

(1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:

(a) Surviving spouse, total inheritable interest. Effective as to decedents dying after August 1, 1985, notwithstanding anything in this chapter to the contrary, if the decedent's personal representative (or trustee or transferee, absent a personal representative) shall so elect, the spouse's inheritable interest shall include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deductions under section 2056(b)(5) or 2056(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1984, regardless of whether or not the federal estate tax marital deduction is elected by the decedent's personal representative. To be valid, the election referred to in the sentence immediately preceding must be made in the form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and must be filed on or before the due date of the tax return (plus extensions) or with the first tax return filed, whichever last occurs;

(b) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying prior to July 1, 1995, as follows:

1. Infant child by blood or adoption, $20,000;

2. Child by blood who has been declared mentally disabled by a court of competent jurisdiction, $20,000;

3. Child adopted during infancy who has been declared mentally disabled by a court of competent jurisdiction, $20,000; or a

4. Child adopted during adulthood who was reared by the decedent during infancy and who has been declared mentally disabled by a court of competent jurisdiction, $20,000;

5. Parent, $5,000;

6. Child by blood, $5,000;

7. Stepchild, $5,000;

8. Child adopted during infancy, $5,000;

9. Child adopted during adulthood who was reared by the decedent during infancy, $5,000; or a

10. Grandchild who is the issue of a child by blood, the issue of a stepchild, the issue of a child adopted during infancy or the issue of a child adopted during adulthood who was reared by the decedent during infancy, $5,000;

(c) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying on or after July 1, 1995, shall be as follows:

1. For decedents dying between July 1, 1995, and June 30, 1996, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-fourth (1/4) of each beneficiary's inheritable interest;

2. For decedents dying between July 1, 1996, and June 30, 1997, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-half (1/2) of each beneficiary's inheritable interest;

3. For decedents dying between July 1, 1997, and June 30, 1998, the greater of the exemption established pursuant to paragraph (1)(b) of this section or three-fourths (3/4) of each beneficiary's inheritable interest; and

4. For each decedent dying after June 30, 1998, each beneficiary's total inheritable interest;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

Section 276. KRS 140.090 is amended to read as follows:

(1) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the ***Department of*** Revenue[~~ Cabinet~~];

(e) Drainage, street, or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total five thousand dollars ($5,000);

(g) Commission of executors and administrators in the amount actually allowed and paid;

(h) Cost of administration, including attorney's fees actually allowed and paid.

(2) Notwithstanding the provisions of KRS 404.040, the debts of a deceased wife, subject to the exception in subsection (1)(a), shall be allowed in calculating the distributive shares of her estate for purposes of this chapter, provided such debts are paid from the proceeds of her estate.

Section 277. KRS 140.100 is amended to read as follows:

(1) The Department of Insurance, on the application of the ***Department of*** Revenue[~~ Cabinet~~], shall determine, and certify in duplicate to the ***Department of Revenue***[~~cabinet~~], the value of any future or contingent estate, income or interest therein, limited, contingent, dependent or determinable upon the lives of persons in being, upon the facts contained in the application or other facts submitted by the ***Department of Revenue***[~~cabinet~~]. No fee shall be charged by the division for this service. The certificate shall be competent evidence that the method of computation therein is correct.

(2) The value of every future, contingent or limited estate, income or interest for the purpose of this chapter shall be determined by the rules, methods and standards of mortality and of value prescribed by the appropriate United States life mortality tables for ascertaining the value of life estates, annuities and remainder interests except that the rate of interest assessed in computing the present value of all future interests and contingencies shall be four percent (4%) per annum.

(3) When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of the interest for the purpose of taxation shall be that amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which the annuitant or life tenant was entitled to the annuity or was in possession of the life estate. The tax on such annuities and life interests shall be payable out of the corpus of the estate, unless otherwise provided under the terms of the will.

(4) Notwithstanding anything in this chapter to the contrary, the value of a surviving spouse's interest in a trust or life estate which was exempt from Kentucky inheritance tax in the first spouse's estate pursuant to an election made under KRS 140.080(1)(a) shall be deemed to be equal to the entire value of the property held in the trust or life estate, at the surviving spouse's death, for Kentucky inheritance tax purposes in the surviving spouse's estate.

Section 278. KRS 140.110 is amended to read as follows:

(1) In the case of estates in expectancy which are contingent or defeasible, a tax shall be levied at the rate which, on the happening of the most probable contingencies or conditions named in the will, deed, trust agreement, contract, insurance policy, or other instrument, would be applicable under the provisions of this chapter. Moneys so collected shall be distributed as are other inheritance tax funds. If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate, or in a person or a corporation exempt from taxation by this chapter, upon application by such beneficiary to the ***Department of*** Revenue [~~Cabinet~~]for refund of any excess tax, the ***Department of*** Revenue[~~ Cabinet~~], after investigation, shall certify to the Finance and Administration Cabinet the amount of such refund. The Finance and Administration Cabinet shall refund such excess payment of tax in the same manner as other refunds are made.

(2) Where an estate or interest can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of divesting.

Section 279. KRS 140.160 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The ***department***[~~cabinet~~] shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The ***department***[~~cabinet~~] may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the ***department***[~~cabinet~~], and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. The personal representative, or the beneficiaries in the absence of a personal representative, shall compute the taxes imposed by this chapter on the tax return provided by the ***department***[~~cabinet~~] when:

(a) 1. A United States estate tax return is required to be filed under federal law and applicable regulations; and

2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or

(b) Any assets from the estate subject to the taxes imposed by this chapter pass to a beneficiary taxable under KRS 140.070.

The tax return, when required, shall be filed with the ***department***[~~cabinet~~] within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 280. KRS 140.170 is amended to read as follows:

(1) The District Court, upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser of the estate. The appraiser shall give notice to all persons having an interest in the estate and to such other persons as the court may by order direct, and shall then appraise the property belonging to the estate. His report shall be filed with the court and a copy thereof with the ***Department of*** Revenue[~~ Cabinet~~]. He shall be paid for his services out of the funds of the estate, on the certification of the court, the amount to be fixed by that court. The total compensation of the appraiser shall not exceed one-tenth of one percent (0.1%) of the total appraised value of the estate for inheritance tax purposes, but there shall be a minimum allowance of five dollars ($5), together with the appraiser's actual and necessary traveling expenses.

(2) After investigation, the ***department***[~~cabinet~~] may change the value of the estate for inheritance taxes and advise the representatives of the estate of this changed valuation after the receipt of a completed tax return and full payment as shown by the tax return.

(3) No appraiser shall accept any fee or reward from a personal representative, trustee, legatee, next of kin or heir of the decedent, or from any other person liable to pay the tax or any portion thereof.

(4) No person shall willfully and knowingly subscribe to or make any false statement of fact, or knowingly subscribe to or exhibit any false paper or false report with intent to deceive any appraiser.

(5) The ***department***[~~cabinet~~] shall keep a record of all returns, reports, and schedules attached thereto required by this chapter for twelve (12) years.

Section 281. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due at the death of the decedent and shall be payable to the ***Department of*** Revenue[~~Cabinet~~] within eighteen (18) months thereafter. If they are paid within nine (9) months, a discount of five percent (5%) shall be allowed, and if they are paid within eighteen (18) months, no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, interest at the tax interest rate as defined in KRS 131.010(6) shall be paid from the expiration of the eighteen (18) months until payment is actually made to the ***department***[~~cabinet~~].

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond, in the form and to the effect prescribed by the ***department***[~~cabinet~~], for the payment of the taxes and interest.

Section 282. KRS 140.222 is amended to read as follows:

(1) When the net tax due from a beneficiary's distributive share exceeds five thousand dollars ($5,000), the beneficiary may elect to pay the inheritance tax in ten (10) equal installments. The first installment shall be due at the time the return is filed with succeeding payments due in annual installments beginning one (1) year after the return is filed.

(2) The portion of the tax deferred under this section shall be charged with interest at the tax interest rate as defined in KRS 131.010(6) commencing eighteen (18) months after the date of death.

(3) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the ***Department of*** Revenue[~~Cabinet~~] at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the ***Department of*** Revenue[~~Cabinet~~] of all other taxes due under this chapter.

(4) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid.

(5) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.

Section 283. KRS 140.270 is amended to read as follows:

(1) In the absence of administration in this state upon the estate of a nonresident, the ***Department of*** Revenue[~~Cabinet~~], at the request of a personal representative duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by the personal representative or grantee, or otherwise, may determine whether or not any property of the decedent within this state is subject to the provisions of this chapter. If so, the ***department***[~~cabinet~~] may determine the amount of tax and adjust the same with the personal representative or grantee, and for that purpose may appoint an appraiser to appraise the property. The expense of appraisal shall be charged upon the property in addition to the tax. The ***department's***[~~cabinet's~~] certificate of the amount of tax and its receipt for the amount therein certified may be filed with the county judge/executive of the county where the property is located, and when so filed shall be evidence of the payment of the tax to the extent of such certification. When the tax is not adjusted within six (6) months after the death of the decedent, the proper District Court, upon application of the ***department***[~~cabinet~~], shall appoint an administrator in this state.

(2) When evidence of ownership of intangible personal property belonging to a nonresident decedent is found to be physically located in this state, the ***Department of*** Revenue[~~Cabinet~~] shall so inform the state official collecting death tax in the state of domicile of the decedent, if that state furnishes like information to the ***Department of*** Revenue[~~Cabinet~~] of this state in a reciprocal manner.

Section 284. KRS 140.275 is amended to read as follows:

(1) It is hereby declared to be the legislative policy that Kentucky shall not be a party to interstate double taxation under the terms of the Kentucky inheritance and estate tax laws. Pursuant to this policy, the ***commissioner***[~~secretary~~] of revenue is hereby authorized to omit from the property subject to tax under those laws, any intangible personal property of a nonresident decedent (having a domicile in the United States) held in trust by a Kentucky trustee if the jurisdiction (state, territory or District of Columbia) in which the decedent was domiciled grants similar immunity to residents of Kentucky, but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction. If another state, territory, or the District of Columbia of the United States constitutionally imposes a tax on the transfer of estates or of the distributive shares thereof, but grants immunity from the tax in respect of any intangible

property of its resident decedents held in trust by a Kentucky trustee, then the ***commissioner***[~~secretary~~] of revenue is hereby authorized to exclude from the property subject to tax under the Kentucky inheritance and estate tax laws, the intangible personal property of a Kentucky resident held in trust in that jurisdiction but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction.

(2) It is expressly provided, however, in view of the uncertainty now prevailing with respect to the correct interpretation of the Constitution of the United States regarding the jurisdiction of the several states, that the provisions of this section shall be inoperative under the second alternative until and unless an agreement, approved as to legality by the Attorney General, between the ***commissioner***[~~secretary~~] of revenue as agent for Kentucky and the appropriate administrative official of such other state, shall have been executed and an original copy thereof filed with the Kentucky ***Department of*** Revenue[~~Cabinet~~].

(3) This section is intended to apply retroactively to all estates of decedents on or after April 25, 1936, which are subject to Kentucky inheritance tax laws.

Section 285. KRS 140.285 is amended to read as follows:

(1) When the ***Department of*** Revenue[~~ Cabinet~~] claims that a decedent was domiciled in Kentucky at the time of death and the taxing authorities of another state or states make a similar claim with respect to their state or states, the ***commissioner***[~~secretary~~] of revenue may enter into a written agreement with such taxing authorities and the executor, administrator or trustee, fixing the sum acceptable to the ***department***[~~cabinet~~] in full settlement of the inheritance or estate taxes imposable under this chapter. Such agreement shall also fix the sum acceptable to such other state or states in full settlement of the death taxes imposable by such state or states.

(2) If the aggregate amount payable under such agreement to the states involved is less than the maximum sum allowable as a credit to the estate against the federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the State of Kentucky as an estate tax so much of the difference between such aggregate amount and the amount of such credit as the amount payable to Kentucky under the agreement bears to such aggregate amount.

Section 286. KRS 140.290 is amended to read as follows:

Whenever debts are proved against the estate of a decedent after the payment of legacies or distribution of property from which the tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so deducted or paid shall be repaid to him, by the personal representative or trustee if the tax has not been paid to the ***Department of*** Revenue[~~ Cabinet~~], or by the ***department***[~~cabinet~~] if it has been so paid.

Section 287. KRS 140.320 is amended to read as follows:

If, within five (5) years after the death of the decedent, a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value was reported shall cause to be paid, pursuant to administrative regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~], the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest at the tax interest rate as defined in KRS 131.010(6).

Section 288. KRS 140.330 is amended to read as follows:

In the event the qualified real estate is reported for inheritance tax purposes at its agricultural or horticultural value and that real estate has been assessed at its agricultural or horticultural value for ad valorem tax purposes, then that assessment shall be presumed to be its agricultural or horticultural value for inheritance tax purposes. If, however, the real estate has not been so assessed for ad valorem tax purposes, then the agricultural or horticultural value shall be determined pursuant to KRS Chapter 132 and such regulations as may be promulgated by the ***Department of*** Revenue[~~ Cabinet~~] to determine horticultural or agricultural value for inheritance tax purposes.

Section 289. KRS 140.350 is amended to read as follows:

At such time as the ***Department of*** Revenue[~~ Cabinet~~] accepts the agricultural or horticultural value on qualified real estate comprising a portion of a decedent's estate and issues tax waivers thereon, it shall cause to be filed in the office of the county clerk of the county where the real estate or the greater portion thereof is located, on a form prescribed by the ***Department of*** Revenue[~~ Cabinet~~], a lien which on its face shall expire in five (5) years and the lien shall secure the payment of any additional tax which may become due as the result of the qualified real estate being sold to others than qualified persons or the qualified real estate being converted to other than a qualified use.

If additional taxes are due as the result of the real estate being transferred to other than a qualified person or its use is converted to other than agricultural or horticultural use, and the additional tax is not paid after assessment of the tax, within the time prescribed by the regulations of the ***Department of*** Revenue[~~ Cabinet~~], then the ***Department of*** Revenue [~~Cabinet~~]may proceed to enforce the lien in accordance with law.

Section 290. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of revenue;

(2) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or

under regulations prescribed by the ***commissioner***[~~secretary~~], "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 291. KRS 141.023 is amended to read as follows:

To facilitate tax computation and tax return preparation, the ***Department of*** Revenue[~~Cabinet~~] may develop optional tax tables and specify the classes of taxpayers eligible to utilize the tables in the preparation of their returns.

Section 292. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

  (a) 1. Is an electric power company as defined in KRS Chapter 136; or

    2. Is an entity that owns or operates a coal-fired electric generation plant;

  (b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, or 141.040; and

  (c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

  (a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

  (b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the ***Department of*** Revenue[~~Cabinet~~]. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The ***Department of*** Revenue[~~Cabinet~~] shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the ***Department of*** Revenue[~~Cabinet~~] under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

  (a) KRS 141.040;

  (b) KRS 141.020;

  (c) KRS 136.070; and

  (d) KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total

liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The ***Department of*** Revenue[~~ Cabinet~~] shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 293. KRS 141.041 is amended to read as follows:

(1) There shall be allowed a credit against the tax imposed on any corporation subject to taxation under KRS 141.040 and which, on or after January 1, 1984, installs, modifies, and utilizes facilities located in Kentucky for generating steam or hot water for space-heating or materials processing or for providing direct heat for industrial processes in the following ways:

(a) Replacement of an existing heat-generating facility not capable of using coal as a fuel with one in which coal can be used;

(b) Erection of a heat-generating facility additional to any existing heat-generating facility or facilities and capable of using coal as a fuel;

(c) Refurbishment for coal utilization of heat-generating facilities which were at one time capable of using coal but which had been altered to allow use of other fuels;

(d) Alteration of an existing heat-generating facility not capable of utilizing coal in such ways as to allow the use of coal;

(e) Substitution of coal for other fuels in any heat-generating facility which on January 1, 1984, was in existence and capable of utilizing coal and other fuels. Substitution means the increased heat input in BTU from coal matched by equal decreases of heat input in equivalent measures to BTU from other fuels, based upon relative fuel usage in the calendar year preceding the year in which the substitution occurred.

(2) The amount of the allowable credit shall be equal to four and one-half percent (4.5%) of the purchase price of the coal subject to taxation under KRS Chapter 143 consumed or substituted in each eligible heating facility as described in subsection (1) of this section, minus any transporting cost included in the purchase price.

(3) The credit shall be allowed for ten (10) years consecutive from the date of the initial installation, modification, or utilization of any heat-generating facility installed or modified on and after January 1, 1984, as defined in subsection (1)(a), (b), (c), and (d) of this section or ten (10) years consecutive from the filing of a fuel-switching credit claim in subsection (1)(e) of this section.

(4) The credit allowable under this section shall be applied against the taxpayer's tax liability as provided in KRS 141.0205, and no part of the credit shall be applicable to the tax imposed by KRS 141.040 for any other taxable year.

(5) A corporation claiming the credit under this section must submit proof of the installation, modification, utilization or substitution as required by regulations issued by the ***Department of*** Revenue[~~ Cabinet~~] prior to the claiming of such credit.

Section 294. KRS 141.068 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in KRS 154.20-254;

(c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;

(d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and

(e) "Tax credit" means the credits provided for in KRS 154.20-258.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the income tax due computed as provided by KRS 141.020 or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned among the shareholders, partners, or members thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of KRS 154.20-258.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by KRS 154.20-258.

Section 295. KRS 141.070 is amended to read as follows:

(1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.

(2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the ***Department of*** Revenue[~~ Cabinet~~] from requiring any information reports pursuant to KRS 141.150(2).

Section 296. KRS 141.073 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.071 and 141.072.

Section 297. KRS 141.170 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the ***department***[~~cabinet~~].

Section 298. KRS 141.200 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter.

(2) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (3) of this section.

(3) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the

department~~[cabinet]~~ and shall be submitted to the ***department***~~[cabinet]~~ on or before the due date of the return including extensions for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the ***department***~~[cabinet]~~ and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(4) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

(5) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The ***Department of*** Revenue~~[Cabinet]~~ may require a further or supplemental report of further information and data necessary for computation of the tax.

(6) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the ***department***~~[cabinet]~~ shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the ***department***~~[cabinet]~~ may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The ***department***~~[cabinet]~~ may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(7) For any taxable year ending on or after December 31, 1995, except as provided under subsection (3) of this section, nothing in this chapter shall be construed as allowing or requiring the filing of:

(a) A combined return under the unitary business concept; or

(b) A consolidated return.

(8) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(9) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December, 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(10) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.

(11) This section shall not be construed to limit or otherwise impair the ***department's***~~[cabinet's]~~ authority under KRS 141.205.

Section 299. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;

(c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in

KRS 154.22-050.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue~~[Cabinet]~~.

(9) The ***Department of*** Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 300. KRS 141.380 is amended to read as follows:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount equal to fifteen percent (15%) of the expenditures, including installation cost, but excluding any finance charges, for qualifying energy property installed on premises in Kentucky which are owned or controlled by the taxpayer. The maximum credit which may be claimed by any taxpayer shall be fifteen hundred dollars ($1,500) during the period specified in subsection (13) of this section. A system or component or piece of equipment shall not be eligible more than once for the credit provided in this section.

(2) The credit in this section may be claimed for the taxable year in which the installation is completed. The credit may be claimed only for expenditures made during the taxable year for which the credit is claimed or during the immediately preceding taxable year, but not for expenditures made before January 1, 1983.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(4) In the case of a partnership, of which one (1) or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocated in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(5) A builder who installs qualifying energy property in a building constructed for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser

may claim the credit. The credit shall not be claimed by both the builder and the purchaser.

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first.

(7) This tax credit shall not apply to trusts or estates.

(8) Before any tax credit can be claimed under the provisions of this section, the Natural Resources and Environmental Protection Cabinet must certify that the taxpayer's system is a viable system for using solar, wind or geothermal energy and documentation must be provided that the system has been completely installed. Any fee charged by the ***department***[~~cabinet~~] for review and certification of a system shall not exceed ten dollars ($10).

(9) The Natural Resources and Environmental Protection Cabinet may promulgate such rules and regulations as necessary to maintain commonly accepted energy equipment standards, to effectively conform to the definition of qualifying energy property in KRS 141.375 and to administer the certification requirements in this section. The regulations, including those describing the application procedure, shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the Natural Resources and Environmental Protection Cabinet by this section, the ***Department of*** Revenue[~~ Cabinet~~] may promulgate such rules and regulations as necessary to effectively administer the requirements of KRS 141.375 and this section.

(11) All regulations necessary to implement KRS 141.375 and this section shall be filed with the Legislative Research Commission in accordance with KRS Chapter 13A by September 1, 1984.

(12) The ***Department of*** Revenue[~~ Cabinet~~] shall report as to the impact of KRS 141.375 and this section to the 1986 General Assembly and to the appropriate interim committee preceding the 1986 General Assembly. The report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the ***Department of*** Revenue [~~Cabinet~~]deems pertinent to an analysis of KRS 141.375 and this section.

(13) The provisions of KRS 141.375 and this section shall apply to the taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

Section 301. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials; and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the ***Department of*** Revenue[~~ Cabinet~~] on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the ***Department of*** Revenue[~~ Cabinet~~] may require. The ***Department of*** Revenue[~~ Cabinet~~] shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

Section 302. KRS 141.400 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and

(c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, trust, or limited liability company treated as a partnership for federal income tax purposes shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue~~[Cabinet]~~.

(9) The ***Department of*** Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 303. KRS 141.401 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010; and

(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(4) Notwithstanding any other provisions of this chapter, an approved company that is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), as follows:

(a) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(c) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(d) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue~~[Cabinet]~~.

(9) The ***Department of*** Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

Section 304. KRS 141.403 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic revitalization project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 305. KRS 141.405 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in KRS 154.12-2084; and

(b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14);

(b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and

(c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).

(4) (a) In the case of an approved company which is an S-corporation or partnership the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned among the shareholders or partners thereof at the same ratio as the shareholders' or partners' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of the tax credit apportioned to each shareholder or partner that may be claimed in any tax year of the shareholder or partner shall be determined in accordance with the provisions of KRS 154.12-2086.

(5) (a) In the case of an approved company that is a trust, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.12-2086.

(6) The ***Department of*** Revenue~~[Cabinet]~~ may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

Section 306. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(d) If the tax computed herein exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 307. KRS 141.414 is amended to read as follows:

(1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the qualified farming operation's participation in a networking project.

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the qualified farming operation's participation in a networking project; and

(c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.

(2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, or trust.

(4) If the networking entity is a separate facility, net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the project.

(5) If the networking project is an expansion to a previously existing farming operation, net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(6) If an approved company can show to the satisfaction of the ***Department of*** Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income from the networking project, the approved farming operation shall determine net income from its participation in the networking project using an alternative method approved by the ***Department of*** Revenue~~[Cabinet]~~.

(7) The ***Department of*** Revenue~~[Cabinet]~~ may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the ***Department of*** Revenue~~[Cabinet]~~ necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

Section 308. KRS 141.415 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in KRS 154.34-010;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from a reinvestment project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to a reinvestment project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to a reinvestment project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.34-080.

(d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries, shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S corporation, partnership, registered limited liability partnership, limited liability company or trust.

(6) If the reinvestment project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the reinvestment project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment

project by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(8) If an approved company can show to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the reinvestment project is located, the approved company shall determine net income from the reinvestment project using an alternative method approved by the ***Department of*** Revenue[~~ Cabinet~~].

(9) The ***Department of*** Revenue[~~ Cabinet~~] may issue administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 309. KRS 141.416 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.34-010 to KRS 154.34-100 and subject to license tax under KRS 136.070;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(2) The tax credit shall equal the computed license tax attributable to the location of a reinvestment project; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(3) The license tax attributable to a reinvestment project shall be determined by a formula approved by the ***Department of*** Revenue[~~ Cabinet~~].

(4) The ***Department of*** Revenue[~~ Cabinet~~] may promulgate administrative regulations and require the filing of forms designed by the ***Department of*** Revenue[~~ Cabinet~~] to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 310. KRS 141.460 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall print on the face of the Kentucky individual income tax form a space for a taxpayer to designate that a contribution be made to the Kentucky Nature and Wildlife Fund from that taxpayer's income tax refund. The space for designating the contribution shall be in substantially the following form:

KENTUCKY NATURE AND WILDLIFE FUND. I wish to contribute
$2----- $5----- $10----- $-----
of my TAX REFUND TO THE KENTUCKY NATURE AND WILDLIFE FUND.

(2) The ***Department of*** Revenue[~~ Cabinet~~] shall print in the instructions accompanying the individual income tax form a description of the purposes for which the Kentucky Nature and Wildlife Fund was established and the use of moneys from the income tax check-off.

Section 311. KRS 141.465 is amended to read as follows:

The ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall transfer fifty percent (50%) of the funds designated in KRS 141.460 to the nongame fish and wildlife fund created by KRS 150.165 and fifty percent (50%) to the Kentucky nature preserves fund created by KRS 146.520 and shall reduce the amount of the income tax refund by the amount designated. Moneys in each fund shall be placed in an interest-bearing account.

Section 312. KRS 141.475 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.455 to 141.470.

Section 313. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;

(c) A tax of three dollars ($3) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;

(d) A tax of three dollars ($3) on each conveyance of real property; and

(e) A tax of three dollars ($3) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the ***Department of*** Revenue[~~ Cabinet~~] by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage

licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the ***department***~~[cabinet]~~.

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 314. KRS 142.015 is amended to read as follows:

The county clerk, in each county, shall be allowed five percent (5%) commission on the amounts collected for state taxes on legal processes and instruments provided for under KRS 142.010, said five percent (5%) commission to be retained by the county clerk on said sums reported to the ***Department of*** Revenue~~[Cabinet]~~ and paid by the county clerk into the State Treasury.

Section 315. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The ***Department of*** Revenue~~[Cabinet]~~ may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to:

1. Merger or consolidation between and among corporations, partnerships, including registered limited liability partnerships, limited partnerships, or limited liability companies; or

2. The conversion of a general partnership, including a registered limited liability partnership, or a limited partnership into a limited liability company;

(i) Between a subsidiary corporation and its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of either corporation's stock;

(j) Under a foreclosure proceeding;

(k) Between a person and a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;

(m) By a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company to a person as owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the person to whom the property was transferred, if the transfer was for nominal consideration;

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800.

Section 316. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Charitable provider" means any provider which does not charge its patients for health-care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health-care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health-care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health-care items or services if:

1. The employing or contracting provider receives revenue attributable to health-care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health-care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing-facility services;

(d) Services of intermediate-care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home-health-care-agency services;

(g) Outpatient prescription drugs; and

(h) HMO services;

(7) "Health-maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "Health services secretary" means the secretary of the Cabinet for Health Services or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-facility services for the mentally retarded," "physician services," "licensed home-health-care-agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing-facility services" means services provided by a licensed skilled-care facility, nursing facility, nursing home, or intermediate-care facility, excluding intermediate-care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health-care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "***Commissioner***[~~Secretary~~]" means the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~Cabinet~~] or that person's authorized representative.

Section 317. KRS 142.347 is amended to read as follows:

(1) Except when the health services secretary has been granted specific authority in KRS 142.301 to 142.359, the ***department***[~~cabinet~~] shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Health Services shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for Health Services shall fully cooperate with the ***department***[~~cabinet~~] and shall provide the ***department***[~~cabinet~~] with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 318. KRS 143.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Department***[~~Cabinet~~]" means "***Department of*** Revenue[~~Cabinet~~]."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the ***department***[~~cabinet~~]. The reporting period shall be monthly. However, the ***department***[~~cabinet~~] may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the ***department***[~~cabinet~~] may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) "Transportation expense" shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

(b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

(c) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities;

3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

(13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location.

(14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is

accessed by mine slopes or other openings that penetrate the coal a minimum of thirty (30) feet below the surface drainage level.

(15) "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

Section 319. KRS 143.040 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of this chapter and shall, subject to the provisions of KRS 143.090, have all the powers, rights, duties, and authority with respect to promulgation of rules and regulations, assessment, collection, refunding and administration of the taxes levied by this chapter conferred generally on it by the Kentucky Revised Statutes including Chapters 131, 134, and 135 of such statutes.

Section 320. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

(a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

(b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the ***Department of*** Revenue[~~ Cabinet~~] to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the ***commissioner***[~~secretary~~] of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 321. KRS 143A.010 is amended to read as follows:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~].

(2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120.

(3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any means; however, "severing" or "severed" shall not include the removal of natural gas from underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth.

(4) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.

(5) "Gross value" is synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (9) of this section incurred in transporting a natural resource shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For natural resources severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For natural resources severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the natural resource is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of the natural resource shall

be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for natural resources of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for natural resources of similar grade and quality.

(e) If severed natural resources are purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(f) If severed natural resources are purchased for the purpose of processing and consumption, the gross value is the fair market value of processed natural resources of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied in KRS 143A.020, royalties, sales commissions, or any other expense.

(6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying, sizing, or loading or unloading for any purpose. "Processing" shall not include the act of unloading or loading for shipment natural resources that have not been severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky.

(7) "Related parties" means two (2) or more persons, organizations or businesses owned or controlled directly or indirectly by the same interests.

(8) "Economic interest" for the purpose of this chapter is synonymous with the economic interest ownership required by Internal Revenue Code, Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(9) (a) "Transportation expense" means:

1. The amount paid by a taxpayer to a third party for transporting natural resources; and

2. The expenses incurred by a taxpayer using his own facilities in transporting natural resources from the point of extraction to a processing plant, tipple, or loading dock.

(b) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities; or

3. The cost of acquisition and operating expenses of equipment used to load or unload the natural resource at the point of extraction, processing facility, or mining and nonmining loading facility.

Section 322. KRS 143A.040 is amended to read as follows:

The ***Department of*** Revenue[~~ Cabinet~~] shall administer the provisions of this chapter and shall have all the powers, rights, duties and authority with respect to rules and regulations, collection, refunding and administration of the taxes levied by KRS 143A.020 conferred generally on it by the Kentucky Revised Statutes, including KRS Chapters 131, 134 and 135.

Section 323. KRS 144.110 is amended to read as follows:

As used in KRS 144.110 to 144.130, unless the context requires otherwise:

(1) "Air transportation facilities and related equipment" means any facilities, improvements, or equipment located at an airport and used, directly or indirectly, by the certificated air carrier or its customers in the carrier's business of transporting persons or property for hire. It includes exclusive space leased or owned by the certificated air carrier, common access areas, concession areas, aircraft ramps, taxiways, roadways, and vehicles which are part of an intra-airport train, subway, or automated fixed guideway transit system, but excludes any other ground vehicles and aircraft.

(2) "Investment" means all costs which, consistent with the fundamental project scope, the certificated air carrier, airport operator, or any bond trustee pays, commits to pay, or incurs in any manner for the purchase or acquisition of additional air transportation facilities for which construction was started after the base period, and related equipment which was not located at an airport in this Commonwealth prior to the base period. Included are costs directly related to the design, construction, purchase, acquisition, lease, use, or financing of part or all of the additional air transportation facilities and related equipment whether owned, leased, or used by the carrier or its customers. Financing costs shall be limited to the principal amount of bonds or other obligations, capitalized interest, and any related issuance costs and expenses. The total investment shall not be offset or otherwise reduced if the certificated air carrier or airport operator is or subsequently becomes eligible for any reimbursement from either federal funds or other funds which may be available, including funds generated directly or indirectly from passenger facility charges. Likewise, any subsequent adjustment to the total investment provided in a carrier's contractual obligation shall not adversely affect the amount of the investment if the fundamental project scope is not reduced.

(3) "Annual period" means the certificated air carrier's taxable year as provided in KRS 141.140.

(4) "Base period" means the certificated air carrier's annual period ending in 1990.

(5) "Contractually obligated" or "contractual obligation" means having entered into a written agreement or commitment to make an investment in air transportation facilities and related equipment in this state.

(6) "Gross Kentucky real wage base" means the wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141, paid by a certificated air carrier during the base period adjusted to reflect changes in the United States Department of Labor's "Employment Cost Index - Wages and Salaries" for the transportation industry or, at the option of the carrier and upon verification by the ***Department of*** Revenue[~~ Cabinet~~], the carrier's actual general wage increases, through the end of the annual period for which tax credit is claimed pursuant to KRS 144.125.

(7) "Nonqualifying employees" means employees of the certificated air carrier whose employment with the carrier began after the base period; and

(a) The employees perform essentially the same functions which, by contract or otherwise, were performed in this Commonwealth for the carrier by another company at any time after the base period; or

(b) Their employment continued in this Commonwealth as the result of the carrier's purchase, merger, or other acquisition of or combination with another company.

(8) "Fundamental project scope" means the total project consisting of the additional air transportation facilities and related equipment as reflected in the carrier's application filed pursuant to KRS 144.130. It shall be measured by the carrier's increased capacity. Measures of increased capacity may include such factors as square footage, cost, employment, passenger or freight loadings or handling capabilities, number of aircraft departures, and other factors related to the increased investment.

Section 324. KRS 144.120 is amended to read as follows:

(1) Subject to the provisions of subsections (4), (5), and (6) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a Kentucky sales and use tax credit, as computed in subsection (3) of this section, on aircraft fuel, including jet fuel, purchased after June 30, 1991, for any annual period in which the carrier meets or exceeds the investment or fuel purchase qualification requirements prescribed in subsection (2) of this section.

(2) To qualify for the sales and use tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; or

(b) During the annual period for which the credit is claimed, purchase and place into the fuel supply tank of its aircraft in this state not less than one hundred million (100,000,000) gallons of aircraft fuel, including jet fuel, for the carrier's direct operation of the aircraft in interstate or foreign commerce exclusively for the conveyance of property or passengers for hire. Nominal use of the aircraft fuel in intrastate commerce shall not affect this provision.

(3) The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less four million dollars ($4,000,000). The four million dollar ($4,000,000) amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

(4) To facilitate administration of the tax credit provided pursuant to this section, each qualifying certificated air carrier purchasing aircraft fuel, including jet fuel, on which the Kentucky sales and use tax for the annual period is reasonably expected to exceed the amount provided in subsection (3) of this section shall report and pay directly to the ***Department of*** Revenue [~~Cabinet~~]the tax applicable to aircraft fuel, including jet fuel, purchased for its storage, use, or other consumption during the annual period, less the credit provided herein.

(5) Notwithstanding the provisions of subsection (1) of this section, no certificated air carrier shall be entitled to any tax credit pursuant to this section unless the carrier meets the requirements of subsection (2) of this section by the annual period ending in 1997.

(6) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 325. KRS 144.125 is amended to read as follows:

(1) Subject to the provisions of subsections (4) through (9) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a general tax credit, as computed in subsection (3) of this section, for any annual period in which the certificated air carrier meets or exceeds the investment and gross wage qualification requirements prescribed in subsection (2) of this section and has elected to begin claiming the credit.

(2) To qualify for the general tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; and

(b) During the annual period for which the credit is claimed, have gross wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141 which are at least fifteen million dollars ($15,000,000) greater than its gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(3) The general tax credit shall be an amount equal to ten percent (10%) of the increase in gross wages subject to Kentucky income tax and Kentucky income tax withholding paid by the certificated air carrier during the annual period as compared to the carrier's gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(4) The general tax credit may accrue for only five (5) consecutive annual periods of the qualifying certificated air carrier. The five (5) year limitation period shall begin at the election of the qualifying certificated air carrier, but not later than the carrier's annual period beginning in 1997. The tax credit shall accrue to the carrier only for the annual periods during which the carrier meets or exceeds the requirements as provided in subsection (2) of this section.

(5) The general tax credit authorized to a qualifying certificated air carrier shall not exceed three million dollars ($3,000,000) for any annual period.

(6) The general tax credit authorized to a qualifying certificated air carrier shall not exceed a total of fifteen million dollars ($15,000,000).

(7) The general tax credit authorized shall be claimed by the qualifying certificated air carrier first against its Kentucky corporation income tax liability, then against its Kentucky corporation license tax liability, with any remaining balance to be claimed against its Kentucky sales and use tax liability. The credit shall not be applied to any other liability due the Commonwealth. The ***Department of*** Revenue[~~ Cabinet~~] may prescribe the method or manner for the qualifying certificated air carrier to claim the tax credit on applicable tax returns filed with the ***department***[~~cabinet~~].

(8) If the tax liabilities against which the tax credit is to be claimed pursuant to subsection (7) of this section are not sufficient to fully absorb the allowable tax credit, or if a net operating loss carryback or other subsequent adjustment reduces the carrier's liability against which a credit authorized by this section has previously been claimed, the unused or excess balance of the allowable credit may be applied against the carrier's liabilities for the specified taxes for previous or subsequent annual periods within the five (5) year limitation period. However, no refund in excess of the net tax actually paid by the carrier shall be made by the Commonwealth because of the carrier's application of the unused or excess credit. Interest shall not apply to any tax refunded for a prior period resulting from the credit carryback provisions of this subsection.

(9) Each certificated air carrier claiming the general tax credit authorized pursuant to this section shall file an annual general tax credit reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.135 to 144.139 for each type tax against which the credit is applied.

Section 326. KRS 144.130 is amended to read as follows:

(1) No certificated air carrier shall claim any tax credit pursuant to KRS 144.110 to 144.130 until its entitlement thereto is first determined by the ***Department of*** Revenue[~~ Cabinet~~]. Upon application to the ***department***[~~cabinet~~], a certificated air carrier desiring to claim a tax credit pursuant to KRS 144.110 to 144.130 shall present documentation as may reasonably be required by the ***department***[~~cabinet~~] to define the fundamental project scope and verify the required investment, the increased capacity which is to result from the investment, and the anticipated project completion date. Documentation may include the carrier's contractual obligations, its corporation board resolutions or stockholder reports, airport board resolutions or actions, related financial transactions, and any other documentation which defines or describes the fundamental project scope and the carrier's planned investment and increased capacity. The ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] shall, upon the ***department's***[~~cabinet's~~] review of the documentation submitted by the carrier, make a tax credit entitlement determination and immediately give notice thereof to the carrier. In making an entitlement determination, the ***Department of*** Revenue[~~ Cabinet~~] shall seek whatever third-party counsel and advice deemed appropriate to satisfy itself that the fundamental project scope is sufficient to support at least a three hundred million dollar ($300,000,000) investment in additional air transportation facilities and related equipment. An entitlement granted by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] for a certificated air carrier to claim any tax credit pursuant to KRS 144.110 to 144.139 shall be subject to the provisions of subsection (2) of this section.

(2) Any certificated air carrier which is granted entitlement to claim any tax credit pursuant to KRS 144.110 to 144.130 shall, by the anticipated project completion date specified in the carrier's application filed pursuant to subsection (1) of this section, but not later than the carrier's annual period ending in 1997, demonstrate to the satisfaction of the ***Department of*** Revenue[~~ Cabinet~~] that an investment of at least three hundred million dollars ($300,000,000) has been made or that the

carrier has completed at least ninety percent (90%) of the fundamental project scope. An investment of three hundred million dollars ($300,000,000) or the completion of at least ninety percent (90%) of the fundamental project scope shall constitute fulfillment of the investment requirement. Without precluding the carrier's demonstration by other means, completion of ninety percent (90%) of the projected increased passenger or freight handling or loading capacity, as measured by the number of gates or loading facilities, or completion of at least ninety percent (90%) of the total square footage of the buildings, including the fixtures and equipment therefor, which were to be constructed and equipped as a part of the fundamental project scope shall demonstrate completion of at least ninety percent (90%) of the fundamental project scope. If the carrier has not made an investment of at least three hundred million dollars ($300,000,000) and has not completed at least ninety percent (90%) of the fundamental project scope by the anticipated project completion date, but not later than the carrier's annual period ending in 1997, all or a portion of the tax credit otherwise authorized pursuant to KRS 144.110 to 144.130 shall be forfeited as follows:

Fundamental Project Scope	Portion of
Completion Percentage	Credit Forfeited
At least 80%, but less than 90%	25%
At least 70%, but less than 80%	50%
Less than 70%	100%

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall be responsible for determining the extent of the certificated air carrier's completion of the fundamental project scope. In making the determination, the ***department***[~~cabinet~~] shall consult with the certificated air carrier, the affected airport board and, if deemed necessary, with other persons.

(4) Subject to the provisions of KRS 131.110, notwithstanding the provisions of KRS 136.076, 139.620, 141.210, 413.120, or any other provision of the Kentucky Revised Statutes limiting the time for assessing taxes, the ***Department of*** Revenue[~~ Cabinet~~] shall assess against the carrier the amount of any tax credit previously claimed which is forfeited pursuant to subsection (2) of this section. Interest at the tax interest rate as defined in KRS 131.010(6) shall apply to the forfeited tax credit amount from the date the credit was claimed until reimbursement is made to the Commonwealth. The carrier shall be allowed to claim in any applicable subsequent annual periods only that portion of the credit otherwise authorized pursuant to KRS 144.110 to 144.130 which has not been forfeited as provided in this section.

(5) The dates set forth in subsection (2) of this section may be extended by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], upon request by the carrier, by an amount of time equal to any delay caused by circumstances reasonably beyond the carrier's control which prevent the carrier from completing the project by the anticipated project completion date, including construction delays and delays resulting from the carrier's compliance with applicable federal, state, or local laws, rules and regulations, or an order or judgment of a court or administrative agency. They may also be extended by the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] upon the carrier's showing of any other good cause. The Governor and the Legislative Research Commission shall be immediately notified of any extension granted pursuant to this subsection and the reason for granting the same.

(6) Upon the making of an initial tax credit entitlement determination pursuant to subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall immediately give written notification to the Governor and the Legislative Research Commission and shall include a description of the fundamental project scope and a summary of the estimated costs. Upon making a final determination as provided in subsections (2) and (3) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall immediately give written notification to the Governor and the Legislative Research Commission of the extent to which the fundamental project scope was completed. Such notification shall include a summary of the total costs expended for the completed project and a description of any changes to or deviations from the fundamental project scope.

Section 327. KRS 144.132 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, purchased after June 30, 2000, as determined under subsection (2) of this section.

(2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the first one million dollars ($1,000,000) in Kentucky sales and use tax due that is applicable to the purchase of aircraft fuel, including jet fuel. The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year beginning after June 30, 2000, in excess of one million dollars ($1,000,000).

(3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one million dollars ($1,000,000) shall report and pay directly to the ***Department of*** Revenue[~~ Cabinet~~] the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

(4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the ***Department of*** Revenue[~~ Cabinet~~] on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 328. KRS 144.135 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 136.070.

Section 329. KRS 144.137 is amended to read as follows:

The sales and use tax aviation fuel tax credit reconciliation report and the general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.120, 144.125, and 144.132 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the applicable tax credit and the use of the credit against the taxes levied by KRS Chapter 139.

Section 330. KRS 144.139 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the ***Department of*** Revenue[~~ Cabinet~~] in a form and contain information and documentation as the ***department***[~~cabinet~~] may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 141.040.

Section 331. KRS 147A.025 is amended to read as follows:

(1) Except as provided in subsection (7) of this section, the Department for Local Government with the advice and approval of the state local finance officer annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public moneys, subject to their control and jurisdiction.

(2) The department with the advice and approval of the state local finance officer shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the General Assembly, the department with the state local finance officer shall review and revise, if necessary, the program when it is found not to be consistent with state law.

(3) The department may assess a charge to any person requesting copies of instructional materials published as provided by this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the State Treasury, and the State Treasurer shall pay these funds into an account of the department to defray the costs of printing and handling these materials.

(4) The commissioner of the department with the advice and approval of the state local finance officer may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the department; but the commissioner of the department shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.

(5) The department shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.

(6) The department shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the department may commence instruction anytime during a calendar year.

(7) The department shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office. The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.

(8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(9) In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet,[~~ the Revenue Cabinet~~] and the Auditor of Public Accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 332. KRS 147B.100 is amended to read as follows:

(1) There is recognized as established the Governor's Financial Policy Council. The purpose of the council shall be to advise the Governor on economic and financial matters relating to revenue, budgetary, and financial management policies.

(2) The council shall consist of the secretary of Finance and Administration Cabinet, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~], the state budget director, and four (4) at-large members, appointed by the Governor, who shall be persons that are knowledgeable by reason of their experience and academic training, in the fields of business,

financial management or public policy. The Governor shall designate one (1) of the four (4) at-large members to serve as chairman of the council.

(3) The terms of the at-large members shall coincide with the elected term of the Governor who appointed them. Vacancies in the at-large membership of the council shall be filled by appointment by the Governor for the unexpired portion of the vacated member's term.

(4) The council shall meet at least annually and shall hold other meetings deemed necessary by a majority of the membership or when requested by the Governor.

(5) The members of the Governor's council shall serve without compensation for their services but shall be reimbursed, subject to the provisions of KRS 45.101 and state travel regulations, for all actual and necessary expenses incurred in the performance of their duties as members of the council.

Section 333. KRS 148.855 is amended to read as follows:

(1) The secretary of the Tourism Development Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Development Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Development Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000), except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars ($5,000,000), and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Development Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the Tourism Development Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Development Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Development Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000), except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars ($5,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The independent consulting firm shall consult with the authority, the Office of the State Budget Director, *and* the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director *and*[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director *and*[~~,~~] the Finance and Administration Cabinet[~~, and the Revenue Cabinet~~] shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(6) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(7) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Development Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 334. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

  (a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004;

  (b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;

  (c) The following provisions:

    1. The term shall be ten (10) years from the later of:

      a. The date of the final approval of the project; or

      b. The original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;

    2. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the ***Department of*** Revenue[~~ Cabinet~~] that the approved company is in compliance with this section; and

    3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:

      a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; or

      b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days; and

  (d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

    1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

    2. The term of the agreement shall not be extended; and

    3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

Section 335. KRS 149.570 is amended to read as follows:

(1) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the assessment due the county from each owner of timberland in accordance with the rate fixed by the county governing body and the amount of timberland acreage indicated on the property tax roll.

(2) The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~ Cabinet~~].

(3) The county clerk shall deliver these bills to the sheriff for collection as provided in KRS 133.220(3).

Section 336. KRS 154.12-2086 is amended to read as follows:

(1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084 to 154.12-2089, award a credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars ($500) per employee and, in the aggregate, not to exceed one hundred thousand dollars ($100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

(2) The skills training investment credit shall be credited on the income tax return of the approved company filed for the fiscal year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in accordance with KRS 154.12-2088(6). The skill training investment credits allowed under KRS 154.12-2084 to 154.12-2089 shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.

(3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.

(4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.

(5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under KRS 154.12-2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.

(6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.

(7) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] shall certify to the Bluegrass State Skills Corporation the amount of any skills training investment credits taken pursuant to KRS 154.12-2084 to 154.12-2089 on tax returns filed during the fiscal year ending June 30 of that year.

Section 337. KRS 154.12-219 is amended to read as follows:

Any person desiring to open a new business or additional business locations in the Commonwealth after July 13, 1984, including any person required to obtain a seller's permit as provided in KRS 139.240 and any person required to register and collect Kentucky use tax under the provisions of KRS 139.340, is required to obtain a general business license. This license shall be valid for the duration of the new business or additional location, but shall expire upon discontinuation of the new business or additional location or upon a change of ownership. This license shall be administered by the ***Department of*** Revenue[~~ Cabinet~~] and the maximum fee for this license shall be ten ($10) dollars set by the Cabinet for Economic Development. The ***Department of*** Revenue[~~ Cabinet~~] shall retain ten percent (10%) of the fee to cover its administrative cost and the remaining fees shall be deposited in a trust and agency account and shall be used by the clearinghouse in performing its assigned duties. The clearinghouse may administer the general business license and collect the fee for the master application and licensure program.

Section 338. KRS 154.20-256 is amended to read as follows:

(1) The approval of investment funds and investment fund managers shall be made pursuant to an application to the authority submitted by a proposed fund manager on behalf of a proposed investment fund and shall include:

  (a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;

  (b) The applicant's business plan, including the minimum and maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;

(c) The amount of credits the investment fund seeks for making qualified investments;

(d) The applicant fund manager's relevant experience and demonstrated ability to manage the proposed investment fund;

(e) The location and account number of a bank account that has been established for use by the investment fund;

(f) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to the offering, in compliance with applicable state and federal securities laws and regulations;

(g) A representation that the investment fund and the investment fund manager are and shall remain in compliance with applicable state and federal securities regulations; and

(h) Any additional information the authority deems necessary.

(2) The applicant shall include copies of the following documents as attachments to the application:

(a) The disclosure documents used in connection with the offering and investment in the investment fund;

(b) The disclosure documents provided to each investor which state that:

1. The investor has certain rights, responsibilities, and liabilities pursuant to KRS 154.20-250 to 154.20-284;

2. The Commonwealth shall be immune from liability for any losses or damages investors, investment funds, or investment fund managers may incur pursuant to KRS 154.20-279;

3. No tax credit shall be available under the provision of KRS 154.20-250 to 154.20-284 until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations and have been approved by the authority, and an agreement has been executed, and the terms of that agreement have been disclosed in writing to each investor; and

4. Investors shall lose all rights to any unused credits allocated to an investment fund that does not make a qualified investment within one (1) year of the date of the agreement with the authority or within any one (1) year period thereafter through the end of the term of the agreement.

An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an approved investment fund, shall disclose in advance and in writing to each potential investor those items described in this subsection in addition to any other items required by law or by agreement.

(3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law, all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of KRS 154.20-250 to 154.20-284, including but not limited to power to:

(a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;

(b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to the investment fund manager's investment fund.

(4) An investment fund's stated purpose shall be primarily to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.

(5) The criteria considered by the authority for the approval of investment fund managers and the maximum amount of credits allocated to the investors of an investment fund shall include but not be limited to:

(a) Compliance by those persons with applicable state and federal securities laws and regulations;

(b) A review of the application;

(c) The investment strategy for the investment fund;

(d) The relevant experience of the applicant fund manager or, if the applicant fund manager is an entity, the applicant's management;

(e) The applicant's demonstrated ability to manage the investment fund; and

(f) The amount of credits requested by the investment fund and the total amount of credits which may be granted to investors under KRS 154.20-258.

(6) Following the making of a qualified investment, the investment fund manager shall within sixty (60) days file a disclosure

form with the authority detailing the following information:

(a) The name and address of the small business in which the qualified investment was made;

(b) The amount of the qualified investment; and

(c) The name, address, and Social Security number or employer identification number, as may be applicable, of each investor and the amount of credit allocated to each investor by virtue of the investor's proportional ownership interest in the qualified investment.

(7) An investment fund manager and its affiliates may operate no more than three (3) separate investment funds pursuant to separate applications submitted to and approved by the authority, provided the investment fund manager is in compliance with any applicable state and federal securities laws and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

(8) An investment fund manager seeking to expand a previously approved investment fund shall submit to the authority an amended application in a form acceptable to the authority.

(9) An investment fund shall lose all unused credits that are available to its investors if the investment fund does not make a qualified investment within one (1) year of the date of the agreement or within any one (1) year period thereafter through the end of the term of the agreement.

(10) The contents of the information form required under subsections (1), (2), and (6) of this section shall be treated by the authority and by the ***Department of*** Revenue[~~ Cabinet~~] as confidential and shall not be considered public records under KRS 61.870 to 61.884.

(11) The authority, in consultation with the ***Department of*** Revenue[~~ Cabinet~~], may establish additional procedures and standards, as it deems necessary for the approval of investment funds and investment fund managers, and for the allocation and granting of investment tax credits by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 339. KRS 154.20-258 is amended to read as follows:

(1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%) of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The aggregate tax credit available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to its investment fund. The credit may be applied against the income tax imposed by KRS 141.020 or 141.040, the corporation license tax imposed by KRS 136.070, the insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270, and the taxes on financial institutions imposed by KRS 136.300, 136.310, and 136.505.

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed fifty percent (50%) of the initial aggregate credit amount approved by the authority for the investment fund which would be proportionally available to the investor. An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section, exceeds the investor's combined tax liabilities against which the credit may be claimed for that year, the investor may carry the excess tax credit forward until the tax credit is used, but the carry-forward of any excess tax credit shall not increase the fifty percent (50%) limitation established by subsection (2) of this section. Any tax credits not used within fifteen (15) years of the approval by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, past due taxes, or any other additions to the investor's tax liability. The holder of the tax credit shall assume any and all liabilities and responsibilities of the credit.

(5) The tax credits allowed by this section are not transferable, except that:

(a) A nonprofit entity may transfer, for some or no consideration, any or all of the credits it receives under this section and any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits pursuant to this subsection, the nonprofit entity shall notify the authority and the ***Department of*** Revenue[~~ Cabinet~~] of:

1. The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the nonprofit entity transferred its credits;

2. The amount of credits transferred; and

3. Any additional information the authority or the ***Department of*** Revenue [~~Cabinet~~]deems necessary.

(b) If an investor is an entity and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.

(c) If an individual investor dies, the tax credits shall pass to the investor's estate or beneficiaries in a manner consistent with the transfer of ownership of the investor's interest in the investment fund.

(6) The tax credit amount that may be claimed by an investor shall reflect only the investor's participation in qualified investments properly reported to the authority by the investment fund manager. No tax credit authorized by this section

shall become effective until the ***Department of*** Revenue[~~ Cabinet~~] receives notification from the authority that includes:

(a) A statement that a qualified investment has been made that is in compliance with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

(b) A list of each investor in the investment fund that owns a portion of the small business in which a qualified investment has been made by virtue of an investment in the investment fund, and each investor's amount of credit granted to the investor for each qualified investment.

The authority shall, within sixty (60) days of approval of credits, notify the ***Department of*** Revenue[~~ Cabinet~~] of the information required pursuant to this subsection and notify each investor of the amount of credits granted to that investor, and the year the credits may first be claimed.

(7) After the date on which investors in an investment fund have cumulatively received an amount of credits equal to the amount of credits allocated to the investment fund by the authority, no investor shall receive additional credits by virtue of its investment in that investment fund unless the investment fund's allocation of credits is increased by the authority pursuant to an amended application.

(8) The maximum amount of credits to be authorized by the authority shall be three million dollars ($3,000,000) for each of fiscal years 2002-03 and 2003-04.

Section 340. KRS 154.20-260 is amended to read as follows:

(1) To receive the credit provided by KRS 154.20-258, an investor shall claim the credit on the investor's annual state tax returns in the manner prescribed by the ***Department of*** Revenue[~~ Cabinet~~].

(2) The contents of an investor's filings under subsection (1) of this section shall be treated by the authority and by the ***Department of*** Revenue[~~ Cabinet~~] as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

Section 341. KRS 154.20-262 is amended to read as follows:

(1) An investment fund that violates the provisions of KRS 154.20-250 to 154.20-284 shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors when these credits are determined to be derived from unqualified investments, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the credits were taken. If the investment fund fails to pay the penalty and interest in full as required by the ***Department of*** Revenue[~~ Cabinet~~], each investor shall be personally liable to the ***Department of*** Revenue [~~Cabinet~~]for that investor's share of the unpaid penalty, which shall be determined by the amount of credits received and utilized by the investor and all applicable interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. The ***commissioner***[~~secretary~~] of the ***Department of*** Revenue [~~Cabinet~~]shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of KRS 154.20-250 to 154.20-284, or to otherwise comply with the provisions of KRS 154.20-250 to 154.20-284. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

(2) The administration of this section shall be the responsibility of the ***Department of*** Revenue[~~ Cabinet~~].

Section 342. KRS 154.20-264 is amended to read as follows:

(1) Each investment fund manager shall file an annual report with the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] and with the authority, on or before February 15 of each year during which it manages an investment fund. This report shall include information that the authority prescribes from time to time, including but not limited to the following:

(a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund, the job creation anticipated and achieved by the small business, and new products and technologies being developed by the small business;

(b) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund management firm that states:

1. At the time of each qualified investment, each small business qualifies as a small business under the provisions of KRS 154.20-250 to 154.20-284;

2. The name and address of each investor, and the amount of cash contribution to the investment fund of each investor who is entitled to the credits; and

3. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations.

(2) The authority shall provide an annual written status report to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate, concerning the activities of the Kentucky investment fund for each fiscal year beginning with the fiscal year ended July 30, 2003. On or before November

1 of each year, the authority shall make an annual report for the preceding fiscal year to the Governor, the Legislative Research Commission, and the Kentucky Innovation Commission. The annual report shall include but not be limited to the following information:

(a) The total number of investors and the aggregate amount of committed cash contributions to all investment funds, categorized by the types of business entities through which investors conduct business and the geographical distribution of investors, including the area development districts;

(b) The total number and amounts of qualified investments made by each investment fund to qualified small businesses, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed; and

(c) The total amount of credits granted to investors.

(3) The contents of the annual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of an annual report made by an investment fund manager.

Section 343. KRS 154.20-277 is amended to read as follows:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the ***Department of*** Revenue[~~ Cabinet~~], individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund regarding the affairs and business of the investment fund. The authority and the ***Department of*** Revenue[~~ Cabinet~~], individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court, which shall enforce the subpoena or subpoena duces tecum according to the rules of civil or criminal procedure, as applicable.

(3) In addition to the audits required by this section, the authority or the ***Department of*** Revenue[~~ Cabinet~~] may audit one (1) or more investment funds or investment fund managers in any year on a random basis or for cause. The authority or the ***Department of*** Revenue[~~ Cabinet~~] may also audit, for cause, any small business in which an investment fund has made a qualified investment. Nothing in this section shall be construed to prohibit the ***Department of*** Revenue[~~ Cabinet~~] from conducting any audit relating to the administration or enforcement of the tax laws of the Commonwealth which the ***Department of*** Revenue[~~ Cabinet~~] determines to be appropriate.

(4) If any audit conducted pursuant to this section discloses that an investment fund or investment fund manager is not in compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284, the authority and the ***Department of*** Revenue[~~ Cabinet~~] may consult with one another with respect to this noncompliance and the ***Department of*** Revenue[~~ Cabinet~~] may exercise any of its powers to protect the Commonwealth's interest and to enforce the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284.

(5) The authority may give an investment fund manager written notice of any noncompliance with the provisions of KRS 154.20-250 to 154.20-284 and specify a period of time the investment fund manager shall have to cure any noncompliance. Failure to cure any such noncompliance within the period of time specified by the authority may result in further action by the authority pursuant to this section.

(6) Nothing in this section shall be construed to prohibit the Department of Financial Institutions, Division of Securities, or any other securities regulatory organization or body with jurisdiction over the activity of an investment fund or the investment fund manager from conducting any examination or investigation relating to the securities activities of the investment fund or investment fund manager. If any examination or investigation conducted pursuant to any securities laws or regulations discloses that an investment fund or investment fund manager is not in compliance with any provision of any applicable securities laws or regulations, the appropriate securities regulator may take whatever action it deems appropriate in accordance with such securities laws and regulations to respond to the noncompliance, notwithstanding any action the authority or the ***Department of*** Revenue [~~Cabinet ~~]may or may not take with respect to the noncompliance.

Section 344. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the ***Department of*** Revenue[~~ Cabinet~~], and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

    (a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

    (b) The aggregate assessments withheld by the approved company in each year.

(8) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(9) The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

    (a) Suspend the income tax credits and assessments available to the approved company;

    (b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

    (c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.

Section 345. KRS 154.22-060 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the maximum amount of inducements as set forth in the tax incentive agreement.

(2) By October 1 of each year, the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth shall certify to the authority in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 346. KRS 154.23-040 is amended to read as follows:

(1) Before any approved company engaged in service or technology activity is granted inducements under KRS 154.23-005 to 154.23-079, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year time period after the date of final approval of the service and technology agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~], the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(b) The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and

2. The assessment, if applicable, withheld by the approved company in each year;

(c) The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(d) If the total number of qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site;

(e) The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(f) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(3) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(4) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(5) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

Section 347. KRS 154.23-050 is amended to read as follows:

(1) An approved company engaged in manufacturing or in service or technology activities shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax liability that would otherwise be due to the Commonwealth from the approved company attributable to its economic development project, as limited by the provisions of KRS 154.23-045.

(2) The ***Department of*** Revenue [~~Cabinet~~]of the Commonwealth shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of qualified zone inducements on state revenues. The ***Department of*** Revenue [~~Cabinet~~]shall certify to the authority, in the form of an annual report, aggregate income tax credits and assessments taken by approved companies with respect to their economic development projects under KRS 154.23-005 to 154.23-079, and certify to the authority when an approved company has taken income tax credits and assessments equal to its total inducements. The ***Department of*** Revenue [~~Cabinet~~]shall certify to the authority, upon written request of the authority, the aggregate income tax credits and assessments taken by an approved company with respect to its economic development project under KRS 154.23-005 to 154.23-079.

Section 348. KRS 154.24-110 is amended to read as follows:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and

(b) By October 1 of each year, the ***Department of*** Revenue [~~Cabinet~~]of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements.

(2) The approved company or, with the authority's consent, an affiliate of the approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.

(a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;

(b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;

(c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;

(e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.

(3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 349. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within two (2) years after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue[~~ Cabinet~~], the employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least fifteen (15) full-time employees who are residents of the Commonwealth and subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax equals or exceeds fifteen (15); or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 350. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;

(b) In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;

2. A credit against the Kentucky license tax imposed by KRS 136.070 on the capital of the approved company generated by or arising out of the economic revitalization project as determined under KRS 136.0704; plus

3. The aggregate assessment withheld by the approved company in each year;

(c) The tax credit allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or fifty percent (50%) of the approved cost that has not yet been recovered, which fifty percent (50%) shall be reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the entire fifty percent (50%) of the approved cost has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the ***Department of*** Revenue [~~Cabinet~~]of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section;

(d) The agreement shall provide that:

1. The term shall not be longer than the earlier of:

a. The date on which the approved company has received inducements or withholds assessments equal to fifty percent (50%) of the approved costs of its economic revitalization project; or

b. Ten (10) years from the date of the execution of the agreement.

2. Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

a. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

b. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

3. If in any fiscal year of the approved company during which the agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds fifty percent (50%) of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds fifty percent (50%) of the approved costs then expended, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(e) All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.

(3) If the approved company elects to utilize the assessment, neither the appropriation agreement, if it is so used, nor the agreement shall be executed unless the assessment is approved by a majority of the employees voting. If the approved company elects not to utilize the assessment, no employee vote shall be required for the execution of the agreement.

(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company.

(5) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed.

(6) Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 351. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, six percent (6%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project. However, if the appropriation agreement is consummated, the assessment shall be five percent (5%) of each employee's gross wages subject to the income tax imposed by KRS 141.020.

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to two-thirds (2/3) of the assessment; or if the appropriation agreement is consummated, the credit shall be equal to four-fifths (4/5) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-sixth (1/6) of the assessment, unless the appropriation agreement is consummated.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books

and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the ***Department of*** Revenue ~~[Cabinet]~~of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 352. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky ***Department of*** Revenue~~[Cabinet]~~, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(6) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(7) Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(8) If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(9) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(10) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(11) All remedies provided in subsection (10) of this section shall be deemed to be cumulative.

(12) By October 1 of each year, the ***Department of*** Revenue [~~Cabinet~~]shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits or assessments equal to its total inducements.

Section 353. KRS 154.34-080 is amended to read as follows:

The authority, upon adoption of its final approval, may enter into with any approved company a reinvestment agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each reinvestment agreement shall include the following provisions:

(1) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document its expenditures of the eligible costs attributable to the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of a consultant or other technical resources employed by the authority;

(2) In consideration of the execution of the agreement between the authority and approved company, the approved company may be permitted one (1) or both of the following inducements:

(a) A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the reinvestment project as determined under KRS 141.415;

(b) A credit against the Kentucky license tax imposed by KRS 136.070 on the approved company as determined under KRS 141.416;

(3) The total inducements authorized in the agreement for the benefits of the approved company shall be equal to the lesser of the total amount of the tax liability or the approved costs that have not yet been recovered. The inducements shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the project;

(4) The agreement shall provide that the term shall not be longer than the earlier of:

(a) The date on which the approved company has received inducements equal to the approved costs of its reinvestment project; or

(b) Ten (10) years from the date of final approval granted by the authority;

(5) All eligible costs of the project shall be expended by the approved company within three (3) years from the date of final approval by the authority. In the event that all eligible costs of the project are not fully expended by the approved company within the three (3) year period, the authority is authorized to:

(a) Reduce the inducements; or

(b) Suspend the inducements; or

(c) Terminate the agreement;

(6) If the agreement is terminated, the authority may require the approved company to repay the ***Department of*** Revenue [~~Cabinet~~]of the Commonwealth all or part of any inducements received by the approved company prior to the termination of the agreement;

(7) The agreement shall specify that the approved company shall make available all of its records pertaining to the project, including but not limited to payroll records, records relating to the expenditure of eligible costs and approved costs, and any other records pertaining to the project as the authority may require; and

(8) The agreement shall not be transferred or assigned by the approved company without the expressed written consent of the authority.

Section 354. KRS 154.34-090 is amended to read as follows:

By October 1 of each year, the ***Department of*** Revenue [~~Cabinet~~]of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year by approved companies with respect to their reinvestment projects under KRS 154.34-010 to 154.34-100, 141.415, and 141.416, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken inducements equal to its approved costs.

Section 355. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1)

member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet or his designee; and the secretary of the Cabinet for Families and Children or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, and the secretary of the Cabinet for Families and Children, shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 356. KRS 154.45-070 is amended to read as follows:

The authority shall administer the provisions of KRS 154.45-020 to 154.45-110, and shall:

(1) Establish by administrative regulation a process to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program;

(2) Initiate contact and fully cooperate with the ***Department of*** Revenue [~~Cabinet~~]in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues;

(3) Report to the General Assembly no later than October 1 annually regarding:

  (a) The authority's method of monitoring the Enterprise Zone Program;

  (b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues;

  (c) The authority's method of reviewing local incentives;

  (d) Information on the number of qualified businesses per zone;

  (e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

  (f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as an enterprise zone pursuant to the provisions of KRS 154.45-050.

(5) Prohibit the certification of businesses in an enterprise zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as an enterprise zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's enterprise zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the enterprise zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and neighborhood enterprise association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

Section 357. KRS 154.45-110 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet~~]shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues.

(2) Report to the General Assembly no later than October 1 annually regarding:

  (a) The ***department's***[~~cabinet's~~] method of monitoring the Enterprise Zone Program;

  (b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues; and

  (c) Recommendations requiring state legislative action.

(3) The ***Department of*** Revenue [~~Cabinet~~]shall by administrative regulation amend its sales and use tax return to collect fiscal information on qualified businesses within an enterprise zone for purposes of reporting to the General Assembly.

(4) The ***Department of*** Revenue [~~Cabinet~~]shall promulgate administrative regulations to establish a process for the collection of tax information relating to enterprise zone tax exemptions.

Section 358. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

(1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay and building funds; and the capital outlay fund account balance on June 30 of odd-numbered years. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;

(2) "Board of education" means the governing body of a county school district or an independent school district;

(3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city, county, or other agency or instrumentality of the Board of Education, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;

(4) "Department" means the State Department of Education;

(5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;

(6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the ***Department of*** Revenue [~~Cabinet~~]as provided by KRS 160.470;

(7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;

(8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;

(9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;

(10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;

(11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;

(12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;

(13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;

(14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;

(15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and

(16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars ($100,000) or a district qualifying for education technology funding.

Section 359. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the board of education of each school district. The tax-levying authority shall levy an ad valorem tax within the limits prescribed in KRS 160.470, which will obtain for the school district the amount of money needed as shown in the district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received and approved by the Kentucky Board of Education. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment, which is hereby authorized for independent school districts embraced by cities of the first four (4) classes, the clerk of the city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in the district or districts, as certified by the Kentucky ***Department of*** Revenue[~~ Cabinet~~]. No later than July 1, 1994, all real property located in the state and subject to local taxation shall be assessed at one hundred percent (100%) of fair cash value.

Section 360. KRS 160.470 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010,

than would be produced by application of the general tax rate that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (9) of this section and KRS 157.440.

(b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "...general tax rate that could have been levied in the preceding year...," referred to in subsection (1)(a) of this section, for purposes of computing the general tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(2) No district board of education shall levy a general tax rate within the limits imposed in subsection (1) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7) of this section.

(3) Upon receipt of property assessments from the ***Department of*** Revenue~~[Cabinet]~~, the commissioner of education shall certify the following to each district board of education:

(a) The general tax rate that a district board of education could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate the amount of revenue expected to be produced;

(c) The general tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced.

(4) Upon completion of action on property assessment data, the ***Department of*** Revenue ~~[Cabinet]~~shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(5) Within thirty (30) days after the district board of education has received its assessment data, the rates levied shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the rates within the time prescribed shall not invalidate any levy made thereafter.

(6) (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education.

(7) (a) Except as provided in subsection (9) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate within the limits of subsection (1) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate levied in the preceding year, and the revenue produced by that rate;
2. The general tax rate for the current year, and the revenue expected to be produced by that rate;
3. The compensating general tax rate, and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(8) (a) That portion of a general tax rate, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsection (9) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(9) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the ***Department of*** Revenue[~~ Cabinet~~]. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with paragraph (a) of this subsection, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

Section 361. KRS 160.627 is amended to read as follows:

(1) The ***Department of*** Revenue [~~Cabinet ~~]shall, where that ***department***[~~cabinet~~] is not acting as such, make available to the tax collector, or to the school district, where the ***Department of*** Revenue [~~Cabinet ~~]is acting as tax collector under subsection (2) of this section, by October 1 of each year, such information as the tax collector or the school district may request concerning the state income tax liability of the school district residents. Such information shall be made available on a confidential basis as provided in KRS 131.190.

(2) The ***Department of*** Revenue[~~ Cabinet~~], upon request by a school district, shall act as tax collector for the school tax authorized by KRS 160.621, and the ***Department of*** Revenue[~~ Cabinet~~], where so acting, KRS 160.625 notwithstanding, may in its own discretion incorporate its tax collecting duties with those relative to collection of state individual income taxes under KRS Chapter 141, thereby making an individual's tax payment hereunder due along with his individual income tax payment and subject to law applicable to such as to time and manner of payment. Tax required to be paid under the provisions of this chapter shall be remitted together with the state income tax return. The ***Department of*** Revenue[~~ Cabinet~~], when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes collected to the school districts for which it is acting as tax collector in a reasonably timely and expeditious manner.

Section 362. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the ***Department of*** Revenue [~~Cabinet ~~]is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the ***Department of*** Revenue[~~ Cabinet~~], for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

(3) The following shall apply only when the ***Department of*** Revenue [~~Cabinet ~~]is acting as tax collector under the authority of KRS 160.627(2):

(a) When the ***department***[~~cabinet~~] is initially requested to be the tax collector under KRS 160.627(2), the ***department***[~~cabinet~~] shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the ***department***[~~cabinet~~] ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the ***department***[~~cabinet~~]. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the ***department***[~~cabinet~~] has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the cabinet.

(b) The ***Department of*** Revenue [~~Cabinet~~]shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the ***department***[~~cabinet~~] in collecting the excise tax. The expenses, which shall be deducted by the ***Department of*** Revenue [~~Cabinet~~]from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the ***department***[~~cabinet~~] to school districts on a basis proportionate to the number of returns processed by the ***Department of*** Revenue [~~Cabinet~~]for each district compared to the total processed by the ***Department of*** Revenue [~~Cabinet~~]for all districts.

(c) All funds received by the ***department***[~~cabinet~~] under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the ***department***[~~cabinet~~] for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The ***department***[~~cabinet~~] may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the ***Department of*** Revenue [~~Cabinet~~]to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(4), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(5), within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the ***department***[~~cabinet~~] is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the ***department***[~~cabinet~~] to collect taxes under the authority of KRS 160.627(2) shall inform the ***department***[~~cabinet~~] of this request not less than one hundred fifty (150) days prior to January 1.

(g) The ***department***[~~cabinet~~] shall not be required to collect taxes authorized in KRS 160.621 of an individual when the ***department***[~~cabinet~~] is not pursuing collection of that individual's state income taxes. The ***department***[~~cabinet~~] shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the ***Department of*** Revenue [~~Cabinet~~]with respect to the performance of its duties under KRS 160.621.

Section 363. KRS 164A.703 is amended to read as follows:

(1) The fund shall be governed by ***a ten (10)***[~~an eleven (11)~~] member board of directors. The board shall have ***four (4)***[~~five (5)~~] ex officio voting members including the State Treasurer, the president of the Council on Postsecondary Education or designee, the secretary of the Finance ***and Administration*** Cabinet or designee,[~~ the secretary of the Revenue Cabinet or designee,~~] the chair of the Association of Independent Kentucky Colleges and Universities or designee, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. The executive director of the Higher Education Assistance Authority or designee shall serve as a nonvoting member. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.

(2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.

(3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.

(4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.

(5) The initial board appointments shall be made by October 1, 2000.

Section 364. KRS 175.810 is amended to read as follows:

The Transportation Cabinet shall certify to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue [~~Cabinet~~]by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for economic development road projects. Upon receiving such certification, the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue [~~Cabinet~~]shall cause said amount to be deposited from road fund receipts to the credit of the economic development road account, hereby created, in the transportation fund (road fund). Such taxes collected in excess of the amount required to be deposited to the economic development road account in the transportation fund (road fund) shall be deposited by the ***Department of*** Revenue [~~Cabinet~~]to the credit of the transportation fund (road fund).

Section 365. KRS 179.720 is amended to read as follows:

(1) Upon the creation of a subdivision road district as provided in KRS 179.700 to 179.735, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The trustees of a district may contract with the county containing the district to perform maintenance on or to provide personnel, materials or equipment for maintenance to be performed upon any road in the district. The county may maintain or provide personnel, materials or equipment for the maintenance of the roads of a district, so long as the district agrees to pay the county's total cost of providing services, personnel, materials or equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue[~~ Cabinet~~].

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount collected by him.

Section 366. KRS 186.025 is amended to read as follows:

Effective January 1, 1981, the Transportation Cabinet shall, by April 1 of each year, provide the ***Department of*** Revenue [~~Cabinet~~]with a listing of all owners of motor vehicles registered in Kentucky on an anniversary basis under KRS 186.051 as of the preceding January 1. Such listing shall be by counties and shall contain, in addition to the name of the owners, the owners' addresses, and the make, model and year of all vehicles owned by the registrants. The county clerk shall continue to provide copies of motor vehicle registration certificates on all motor vehicles not registered under the provisions of KRS 186.051.

Section 367. KRS 186.232 is amended to read as follows:

(1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

(2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.

(3) If a notarized affidavit is required and available under KRS 138.450, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the ***Department of*** Revenue [~~Cabinet~~]to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.

Section 368. KRS 186.655 is amended to read as follows:

(1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may operate upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which the vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:

  (a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, or recreational vehicle;

  (b) The owner's registration receipt, if the trailer, semitrailer, or recreational vehicle was last registered in this state;

  (c) A bill of sale and the previous registration receipt, if last registered in another state that does not require the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

  (d) A certificate of title, if last registered in another state that requires the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

  (e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle assembled or constructed for his personal use on the highways; or

  (f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle where the bill of sale for the vehicle has been lost, destroyed, or stolen.

(2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain the owner's name, address, date, brief

description, and a statement that the trailer was constructed by the owner for use on the highways and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain the owner's name, address, date, make, year made, serial or identification number, name of the person from whom purchased, date of purchase, a statement that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed, or stolen, and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(4) After initial registration of his vehicles in this state, the owner shall register his trailer, semitrailer, or recreational vehicle on or before April 1 of each year. Registration with the clerk shall be deemed to be registration with the cabinet.

(5) A county clerk or other officer shall not issue license tags to the owner of a recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the ***Department of*** Revenue[~~ Cabinet~~]. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the ***Department of*** Revenue[~~ Cabinet~~].

Section 369. KRS 186A.015 is amended to read as follows:

(1) Except as provided for in KRS 235.050, the titling and registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The Transportation Cabinet, the Natural Resources and Environmental Protection Cabinet, the ***Department of*** Revenue[~~ Cabinet~~], and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

(3) The Transportation Cabinet, as far as practicable, and not inconsistent with the provisions of KRS Chapter 235, shall promulgate administrative regulations requiring the procedures for boat titling and registration to be consistent with motor vehicle titling and registration. These administrative regulations may pertain but shall not be limited to the following:

(a) Conditions and characteristics of certificate of title forms;

(b) Comparison and identification of hull identification numbers;

(c) Application for title or registration;

(d) Processing of title applications;

(e) Form of certificate of title;

(f) Notation of security interests or title;

(g) Title lien statements;

(h) Transfer of boat ownership;

(i) Duplicate certificate of title or registration; and

(j) Salvage titles.

Section 370. KRS 186A.030 is amended to read as follows:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the Department of Vehicle Regulation, in cooperation with the ***Department of*** Revenue[~~ Cabinet~~], shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the ***Department of*** Revenue[~~ Cabinet~~], and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with an owner of a motor vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.

Section 371. KRS 186A.060 is amended to read as follows:

The Department of Vehicle Regulation is directed to develop, in cooperation with county clerks, auto dealers, and the ***Department of*** Revenue[~~ Cabinet~~], and Departments of Insurance and State Police, the forms required to record all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership. When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title. The department shall constantly review the information needs of government agencies and other organizations with the goal of reducing, or eliminating, unnecessary documentation. Information being sought for application for title relevant to, but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or inspector shall be set forth by the cabinet in such a way as to promote flexibility in reaching this goal, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process. The use of an electronic medium shall be employed so that forms can be printed by the automated system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to application, signature, forms, or application transfer record may be construed to be electronic in nature at the discretion of the cabinet as provided for by administrative regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous information in pursuit of a certificate of title shall be guilty of forgery in the second degree.

Section 372. KRS 186A.290 is amended to read as follows:

(1) Regardless of other provisions of the statutes, the county clerk may omit sending duplicates of each certificate of title and registration, or certificate of registration he issues, to the Transportation Cabinet and ***Department of*** Revenue[~~ Cabinet~~], and the property valuation administrator, and may omit the production and filing of one of the copies formerly known as either county clerk's alpha or his numeric copy, when it is determined by the agencies indicated that their need for "duplicates" of each certificate or "receipt" is obviated by the automated system.

(2) The Department of Vehicle Regulation and the ***Department of*** Revenue [~~Cabinet~~]shall, as agreed between them, provide appropriate system support or computerized listings on magnetic tape or disc, printouts, or system access, to fulfill the information needs formerly requiring duplicates of each certificate or receipt.

Section 373. KRS 186A.295 is amended to read as follows:

(1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as established from a value manual approved by the ***Department of*** Revenue[~~ Cabinet~~], or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he removes, shall surrender the certificate of title for such vehicle for which he has a certificate of title in his or another name, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his possession, and for which he has a certificate of title, whether in his or another name, if such vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the Department of Vehicle Regulation, and take any other action related to it, as required by the Department of Vehicle Regulation.

Section 374. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the ***Department of*** Revenue[~~ Cabinet~~];

(d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction, or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;

(l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any manufacturer from offering discounts or rebates on any motor vehicle to any of its employees;

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

(2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.

(3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.

(4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.

(6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

Section 375. KRS 197.120 is amended to read as follows:

(1) The Department of Corrections may enter into contracts with any other state agency for the use and employment of prisoners who may be eligible for the assignments. The contracts shall specifically set forth the compensation to be paid to the Department of Corrections for the use and employment of the prisoners, for the payment of the expenses of transporting, guarding, housing, disciplining, and maintaining the prisoners while so employed. The amount to be paid shall be certified by the contracting parties to the Finance and Administration Cabinet at the end of each month and shall be charged to the appropriation of the agency liable for the payment thereof and credited to the budget of the department to be disbursed and expended as it directs. Any contract may provide for a fixed per diem compensation to be paid to the department for each day's work performed by the prisoner and the department shall pay, out of the per diem compensation, the expenses of transporting, guarding, disciplining, housing, and maintaining prisoners as may be provided in the contracts.

(2) The Department of Corrections shall not enter into any contract with the ***Department of*** Revenue[~~ Cabinet~~] for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 376. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.

(2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of ***thirteen (13)***[~~fourteen (14)~~] members, ***five (5)***[~~six (6)~~] of whom shall be the Lieutenant Governor, the secretary of the Finance and Administration Cabinet, the commissioner of the Department for Local Government,[~~ the secretary of the Revenue Cabinet,~~] the Attorney General, and the secretary

of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and eight (8) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as follows:

(a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;

(b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;

(c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;

(d) One (1) private director representing the interests of the homeless population within the Commonwealth;

(e) One (1) private director representing the interests of local government;

(f) One (1) private director representing the interests of the home construction industry in the Commonwealth;

(g) One (1) private director representing the interests of consumers in the Commonwealth; and

(h) One (1) private director representing the interests of the Kentucky State Building Trades Council.

(4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.

(5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.

(6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for the vacancy as provided in this section.

(7) The Governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.

(9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.

(12) Each private director shall be entitled to a fee of one hundred dollars ($100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

Section 377. KRS 205.769 is amended to read as follows:

(1) In cases deemed appropriate pursuant to established guidelines, the cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for overdue child support and maintenance amounts that are included in the same support order as child support. The cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for medical support, when the medical support arrearage accrued is based on a medical support order for a specified dollar amount.

(2) In nonpublic assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.

(3) Written notice in advance shall be provided the obligor of the referral for state income tax refund offset, together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the cabinet shall promptly refund the excess amount pursuant to established procedures.

(5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The ***Department of*** Revenue[~~ Cabinet~~] shall notify the cabinet of the parent's home address and Social Security number or numbers. The cabinet shall provide this information to any other state involved in enforcing the support order.

(7) The cabinet has the unfettered right to intercept federal income tax refunds and state income tax refunds, pursuant to 45 C.F.R. 303.72 and KRS 131.560 to 131.595, to satisfy all child support, maintenance, and medical support arrearages due the cabinet or its assignee.

Section 378. KRS 205.7695 is amended to read as follows:

The Cabinet for Families and Children and the ***Department of*** Revenue[~~ Cabinet~~] shall work together to develop a system of information sharing for the effective and efficient collection of child support payments. Any requirement included in KRS Chapter 131, 205, 403, or 405 or any other law for either cabinet for the confidentiality of individual personal and financial records shall not be violated in the process of this coordination.

Section 379. KRS 205.778 is amended to read as follows:

(1) When the cabinet determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a noncustodial parent who owes past-due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for Families and Children for past-due child support shall have first priority over any other lien or levy issued by the ***Department of*** Revenue[~~ Cabinet~~] or any other agency, corporation, or association.

Section 380. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the ***Department of*** Revenue[~~ Cabinet~~]. The Cabinet for Families and Children shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 381. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean a fluidized bed combustion unit, installed in a plant facility located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the fluidized bed combustion technology must constitute the major energy source for the primary operations of the plant facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the ***Department of*** Revenue[~~ Cabinet~~] pursuant to KRS 211.392.

Section 382. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the ***Department of*** Revenue[~~ Cabinet~~] in the manner and form prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the ***Department of*** Revenue[~~ Cabinet~~] for the proper administration of this section. If the ***Department of*** Revenue[~~ Cabinet~~] finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the ***Department of*** Revenue[~~ Cabinet~~] shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The ***Department of*** Revenue[~~ Cabinet~~] shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or

(c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.

(3) If the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~], in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.

(6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the ***Department of*** Revenue[~~ Cabinet~~].

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the ***Department of*** Revenue[~~ Cabinet~~].

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 383. KRS 224.01-310 is amended to read as follows:

(1) Application for a pollution control tax exemption certificate shall be filed with the ***Department of*** Revenue[~~ Cabinet~~] in such manner and in such form as may be prescribed by regulations issued by the ***Department of*** Revenue[~~ Cabinet~~] and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the ***Department of*** Revenue[~~ Cabinet~~] for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the ***Department of*** Revenue[~~ Cabinet~~]. If the ***Department of*** Revenue[~~ Cabinet~~] finds that the facility qualifies as a pollution control facility as defined in KRS 224.01-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

(2) Before issuing a pollution control tax exemption certificate, the ***Department of*** Revenue[~~ Cabinet~~] shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the ***Department of*** Revenue[~~ Cabinet~~] shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

(3) Provided, however, that where the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~] in lieu of revoking such certificate may modify the same.

(4) On the mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the ***Department of*** Revenue[~~Cabinet~~].

(8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the ***Department of*** Revenue[~~Cabinet~~].

Section 384. KRS 224.50-868 is amended to read as follows:

(1) Until July 31, 2006, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar ($1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.

(2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall either offer the retailer that waste tire or meet the following requirements:

(a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

(b) Deliver the waste tire to a person registered in accordance with the waste tire program; or

(c) Reuse the waste tire for its original intended purpose or an agricultural purpose.

(3) A retailer shall report to the ***Department of*** Revenue[~~Cabinet~~] on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the ***Department of*** Revenue[~~Cabinet~~] may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.

(4) A retailer shall:

(a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and

(b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar ($1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."

(5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.

(6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.

Section 385. KRS 224.50-870 is amended to read as follows:

The ***Department of*** Revenue[~~Cabinet~~] shall transfer monthly fees collected pursuant to KRS 224.50-868 to the State Treasury, for deposit into the waste tire trust fund established by KRS 224.50-880. All assessment and collection powers conveyed to the ***Department of*** Revenue[~~Cabinet~~] for the assessment and collection of taxes shall apply to the assessment and collection of the fees. The ***Department of*** Revenue[~~Cabinet~~] shall be reimbursed from the waste tire trust fund for its costs incurred in assessing and collecting the fees, with the reimbursement not to exceed fifty thousand dollars ($50,000) per year.

Section 386. KRS 224.50-880 is amended to read as follows:

(1) A waste tire trust fund is established in the state treasury. The fund shall be used by the cabinet for the following purposes:

(a) Properly managing waste tires;

(b) Paying the cabinet's costs in implementing the waste tire program to include costs associated with any waste tire amnesty program established by the cabinet that permits waste tires to be turned in without incurring fees, charges, or penalties;

(c) Paying the ***Department of Revenue's***~~[Revenue Cabinet's]~~ costs of assessing and collecting the fee established by KRS 224.50-868;

(d) Entering into the agreements described in KRS 224.50-876; and

(e) Awarding the grants described in KRS 224.50-878.

(2) All interest earned on money in the fund shall be credited to the fund.

(3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

(4) Any money remaining in the waste tire trust fund established by KRS 224.50-820 shall be transferred to the fund established by this section.

Section 387. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the ***Department of*** Revenue~~[Cabinet]~~ at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the ***Department of Revenue's***~~[Revenue Cabinet's]~~ administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the ***Department of*** Revenue~~[Cabinet]~~ by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The ***Department of*** Revenue~~[Cabinet]~~ shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, 2004, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

Section 388. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the commission. The application shall include the following information:

(a) The full name and address of the person making application;

(b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;

(c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the commission;

(d) The proposed hours of each racing day and the number of races to be conducted;

(e) The names and addresses of all principals associated with the applicant or licensee;

(f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

(g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and

(h) Any other information that the commission by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.

(2) An application for license shall be accompanied by the following documents:

(a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following;

1. The net worth of the applicant;

2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and

3. The proposed or current financing structure for the operation and the sources of financing.

(b) For a license renewal applicant, an audited financial statement for the prior year;

(c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;

(d) A statement from the ***Department of*** Revenue~~[Cabinet]~~ that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;

(e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.

(3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.

(4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the commission within thirty (30) days of the change.

(5) The commission shall as soon as practicable, but in no event later than November 1 in any calendar year award dates for racing in the Commonwealth during the next year. In awarding dates, the commission shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the commission may award after November 1 additional racing dates to make up for those dates canceled.

(6) The commission may issue a license to conduct a horse race meeting to any association making the aforesaid application if the applicant meets the requirements established in KRS 138.530 and other applicable provisions of this chapter, and if the commission finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth.

(7) As a condition precedent to the issuance of a license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(8) Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track that is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(9) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.

(10) Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.

(11) The commission may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this commission.

(12) Every horse race not licensed under this section is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

Section 389. KRS 234.310 is amended to read as follows:

As used in KRS 234.310 to 234.440, unless the context requires otherwise:

(1) "***Department***[~~Cabinet~~]" means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Person" includes every natural person, fiduciary, association, state, or political subdivision, or corporation. Whenever used in any clause prescribing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof;

(3) "Liquefied petroleum gas motor fuel" means and includes all combustible gases and liquids as described in KRS 234.100 used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Public highways" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(6) "Liquefied petroleum gas motor fuel dealer" means any person who imports or causes to be imported into this state for resale or use, or any person making sales in this state, of liquefied petroleum gas motor fuel for resale or use in this state by a licensed liquefied petroleum gas motor fuel user-seller;

(7) "Liquefied petroleum gas motor fuel user-seller" means any person, not licensed as a liquefied petroleum gas motor fuel dealer, who dispenses liquefied petroleum gas motor fuel into the fuel tanks of, or attached to, motor vehicles for the propulsion of such motor vehicles on the public highways, and shall include any such person who so dispenses liquefied petroleum gas motor fuel for consumption in such motor vehicles owned, leased, or operated by him.

Section 390. KRS 234.320 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1) and (2) is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the ***department***[~~cabinet~~] on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent (1%) of the tax shall be made to the liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

Section 391. KRS 234.330 is amended to read as follows:

(1) A license shall be required of each liquefied petroleum gas motor fuel dealer.

(2) Application for a license shall be made to the ***department***[~~cabinet~~] upon forms prepared and furnished by the ***department***[~~cabinet~~]. The application shall contain such information as the ***department***[~~cabinet~~] deems necessary.

(3) Concurrently with the filing of an application for a license, a liquefied petroleum gas motor fuel dealer shall file with the ***department***[~~cabinet~~] a bond as required under KRS 234.340. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties and interest imposed by KRS 234.310 to 234.440.

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the ***department***[~~cabinet~~] shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the ***department***[~~cabinet~~], or if the ***department***[~~cabinet~~] is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the ***department***[~~cabinet~~] may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The ***department***[~~cabinet~~] shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 392. KRS 234.340 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer shall file with the ***department***[~~cabinet~~] a corporate bond, cash bond, or securities approved by the ***department***[~~cabinet~~] in a minimum amount of five hundred dollars ($500) and in a maximum amount of four (4) months' liability for taxes imposed under KRS 234.310 to 234.440 but not to exceed fifty thousand

dollars ($50,000). If, however, a liquefied petroleum gas motor fuel dealer is bonded as provided in KRS 138.330 the ***department***[~~cabinet~~] may waive the bonding requirement in this section provided a rider is attached to the bond to guarantee payment of all liquefied petroleum gas motor fuel taxes together with all penalties and interest thereon and secure faithful compliance with the provisions of KRS 234.310 to 234.440. The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the ***department***[~~cabinet~~] of all taxes levied under KRS 234.310 to 234.440, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 234.310 to 234.440.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise or if in the opinion of the ***department***[~~cabinet~~] any surety has become unsatisfactory or unacceptable, the ***department***[~~cabinet~~] may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the ***department***[~~cabinet~~] shall cancel the license in accordance with the provisions of this section. If a new bond is furnished by the licensee as above provided, the ***department***[~~cabinet~~] shall cancel the bond for which the new bond is substituted.

(3) If upon an informal hearing, of which the licensee shall be given ten (10) days' notice in writing, the ***department***[~~cabinet~~] decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the ***department***[~~cabinet~~], file an additional bond in the same manner and form with surety thereon approved by the ***department***[~~cabinet~~], in any amount determined by the ***department***[~~cabinet~~] to be necessary, failing which the ***department***[~~cabinet~~] shall cancel the license in accordance with the provisions of this section.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on the bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the ***department***[~~cabinet~~] a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The ***department***[~~cabinet~~] shall, promptly on the receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the ***department***[~~cabinet~~] a new bond with surety satisfactory to the ***department***[~~cabinet~~] in the amount and form prescribed in this section, the ***department***[~~cabinet~~] shall cancel the license in accordance with the provisions of this section. If the new bond is furnished by the licensee as above provided, the ***department***[~~cabinet~~] shall cancel the bond for which the new bond is substituted.

Section 393. KRS 234.350 is amended to read as follows:

(1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to reasonable cause, the ***department***[~~cabinet~~] may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.

(2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the ***department***[~~cabinet~~] may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the ***department***[~~cabinet~~] his license.

(3) If upon investigation the ***department***[~~cabinet~~] ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the ***department***[~~cabinet~~] may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the ***department***[~~cabinet~~].

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the ***department***[~~cabinet~~] in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the ***department***[~~cabinet~~] his license.

(5) If the ***department***[~~cabinet~~] takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the Kentucky Board of Tax Appeals where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.

(6) If the license is canceled by the ***department***[~~cabinet~~] as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the ***department***[~~cabinet~~] shall cancel the bond filed by the licensee.

Section 394. KRS 234.360 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer licensee shall maintain complete records of inventories, purchases, sales, use and other dispositions of liquefied petroleum gas. Such records, together with manifests of lading, invoices,

correspondence, and other papers pertaining to liquefied petroleum gas motor fuel shall be retained for a minimum of two (2) years, and if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

(2) Where storage of liquefied petroleum gas is for multiple uses, and where the number of gallons taxable of liquefied petroleum gas motor fuel is determined by the liquefied petroleum gas motor fuel dealer and/or the liquefied petroleum gas motor fuel user-seller, based on the best estimate possible from mileage and efficiency records available, all mileage and efficiency records of such motor vehicle must be retained for a minimum period of two (2) years, and, if requested by the ***department***[~~cabinet~~], shall be made available for examination by the ***department***[~~cabinet~~].

Section 395. KRS 234.370 is amended to read as follows:

(1) Every liquefied petroleum motor fuel dealer licensee shall file with the ***department***[~~cabinet~~], on forms prescribed by the ***department***[~~cabinet~~], a monthly tax return. The return shall be made under penalty of perjury and shall show such information as the ***department***[~~cabinet~~] may require. The licensee shall file the return on or before the twenty-fifth day of the next succeeding calendar month following the month to which it relates.

(2) The monthly tax return shall be accompanied by remittance covering the tax due.

Section 396. KRS 234.380 is amended to read as follows:

Liquefied petroleum gas motor fuel dealers using, selling, and/or delivering liquefied petroleum gas to motor vehicles, or into storage for use in motor vehicles, shall report and pay the state tax at the rate levied in KRS 138.220(1) and (2) on all such fuel to the ***Department of*** Revenue[~~ Cabinet~~]. The dealer shall issue an invoice to the customer whenever the sale or delivery is consummated giving the invoice date, name and address of the customer, and number of taxable gallons sold or delivered. The number of taxable gallons to be invoiced shall be determined in the following manner by the dealer:

(1) The metered gallons, if placed into a fuel tank of a motor vehicle;

(2) The metered gallons, if placed into storage, all of which is to be used or sold for use in motor vehicles;

(3) The number of gallons to be used in motor vehicles, if the storage is for multiple uses. The number of taxable gallons to be determined by the user and the dealer based on the best estimate possible from mileage and efficiency records available; or

(4) If the motor vehicle carburetor is connected to a fuel line leading from a fuel tank where another, or other motors are supplied with fuel also, then the number of gallons to be invoiced as taxable motor fuel shall be determined from mileage and fuel efficiency records.

Section 397. KRS 234.400 is amended to read as follows:

The ***department***[~~cabinet~~] may audit the books and records of each licensee and make such other investigations as it deems necessary to determine whether or not the tax and other requirements imposed by KRS 234.310 to 234.440 have been met.

Section 398. KRS 234.410 is amended to read as follows:

The reports required by KRS 234.370 shall be accompanied by a certified or cashier's check payable to the State Treasurer, for the amount of tax due for the preceding calendar month computed as provided in KRS 234.380, except that the ***department***[~~cabinet~~] may waive this requirement and accept the check of the licensee if he is of sound financial condition and has established a good record of compliance with the requirements of KRS 234.310 to 234.440.

Section 399. KRS 234.440 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall administer the taxes provided in KRS 234.310 to 234.430 and this section and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(2) The ***department***[~~cabinet~~] shall, upon the request of the officials to whom are entrusted the enforcement of the liquefied petroleum gas motor fuel tax law of any other state of the United States or the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment, or delivery by any person of liquefied petroleum gas motor fuel, provided such other state or states provide for the furnishing of like information to this state.

Section 400. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

(a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

(b) Patented, patent, and proprietary medicines;

(c) Toilet, medicinal, and antiseptic preparations and solutions;

(d) Flavoring extracts and syrups;

(e) Denatured alcohol or denatured rum;

(f) Vinegar and preserved sweet cider;

(g) Wine for sacramental purposes;

(h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and

(i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) [~~"Cabinet" means the Revenue Cabinet unless the context requires otherwise.~~]

[~~(9)~~] "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(9)[~~(10)~~] "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(10)[~~(11)~~] "City administrator" means city alcoholic beverage control administrator.

(11)[~~(12)~~] "Commissioner" means the commissioner of alcoholic beverage control.

(12)[~~(13)~~] "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(13)[~~(14)~~] "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(14)[~~(15)~~] "County administrator" means county alcoholic beverage control administrator.

(15)[~~(16)~~] "Department" means the Department of Alcoholic Beverage Control.

(16)[~~(17)~~] "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(17)[~~(18)~~] "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(18)[~~(19)~~] "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(19)[~~(20)~~] "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(20)[~~(21)~~] "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(21)[~~(22)~~] "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(22)[~~(23)~~] "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(23)[~~(24)~~] "Field representative" means any employee or agent of the department who is regularly employed and whose

primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(24)[~~(25)~~] "License" means any license issued pursuant to KRS 243.020 to 243.670.

(25)[~~(26)~~] "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(26)[~~(27)~~] "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(27)[~~(28)~~] "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(28)[~~(29)~~] "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(29)[~~(30)~~] "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(30)[~~(31)~~] "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(31)[~~(32)~~] "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(32)[~~(33)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(33)[~~(34)~~] "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers and that has a bona fide kitchen facility.

(34)[~~(35)~~] "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(35)[~~(36)~~] "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(36)[~~(37)~~] "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(37)[~~(38)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(38)[~~(39)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

[~~(40) "Secretary" means the secretary of the Kentucky Revenue Cabinet.~~]

(39)[~~(41)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(40)[~~(42)~~] "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(41)[~~(43)~~] "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(42)[~~(44)~~] "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(43)[~~(45)~~] "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(44)[~~(46)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(45)[~~(47)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(46)[~~(48)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(47)[~~(49)~~] "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(48)[~~(50)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of

manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(49)[~~(51)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 401. KRS 241.020 is amended to read as follows:

(1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, except that the collection of taxes shall be administered by the ***Department of*** Revenue[~~ Cabinet~~].

(2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.

(3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.

Section 402. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located, import a non-United States brand malt beverage from an importer or wholesaler registered with the Kentucky ***Department of*** Revenue[~~ Cabinet~~]; or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employees for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of such truck or vehicle holds a wholesaler's license.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Section 403. KRS 243.200 is amended to read as follows:

(1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(2) A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.

(3) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.

(4) Distilled spirits and wine may be transported by the holder of any license authorized by KRS 243.030 from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.

(5) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the ***Department of*** Revenue[~~ Cabinet~~] upon request.

(6) Distilled spirits and wine may be transported by the holder of any retail package or drink license issued under KRS 243.030 from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

Section 404. KRS 243.380 is amended to read as follows:

(1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made to the administrator of the distilled spirits unit. Applications for licenses provided for in KRS 243.040 shall be made to the administrator of the malt beverage unit.

(2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as the board by regulation requires. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, cash, a postal or

express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the ***Department of*** Revenue[~~ Cabinet~~] copies of the pay-in vouchers and such other supporting data as the ***Department of*** Revenue[~~ Cabinet~~] may require for revenue control purposes.

Section 405. KRS 243.400 is amended to read as follows:

(1) Every applicant for a brewer's, distiller's, rectifier's, bottling house or vintner's license shall file with his application a bond to the state in the amount of one thousand dollars ($1,000). The bond shall be on a form approved by the board and shall have corporate surety registered by the Department of Insurance. The applicant shall be the principal obligor and the state shall be the obligee. The bond shall be conditioned upon the prompt payment by the obligor to the ***Department of*** Revenue[~~ Cabinet~~] of any and all state taxes, with penalties and interest. The applicant may file a continuing bond provided that each renewal application is accompanied by:

(a) An affidavit that the bond remains in force, and

(b) A copy of consent of surety.

An applicant for two (2) or more licenses of the same kind may file a blanket bond covering all of his operations. The amount of such a bond shall be the same as if separate bonds were furnished.

(2) Every applicant for a wholesaler's license shall file with his application a corporate surety bond to the state in the minimum amount of two thousand dollars ($2,000) or an amount equal to three (3) times the monthly tax liability, whichever is less, and up to a maximum amount of twenty-five thousand dollars ($25,000). It shall be sufficient, in the opinion of the board, which shall consider the financial reputation and rating of the applicant, to insure payment to the state of the amount of any and all taxes and penalties and interest for which the wholesaler may become liable. It shall be on a form to be approved by the board and with surety on the bond approved by the board. The applicant shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the wholesaler to the ***Department of*** Revenue[~~ Cabinet~~] of any and all state taxes, with penalties and interest.

Section 406. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the ***Department of*** Revenue[~~ Cabinet~~] relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

(2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 407. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

(a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

(b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

(c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the ***Department of*** Revenue[~~ Cabinet~~] made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price

in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

(c) Knowingly receiving stolen property upon the licensed premises.

Section 408. KRS 243.630 is amended to read as follows:

(1) For purpose of this section, "transfer" means:

(a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information as the department may prescribe.

(7) The appropriate state administrator shall grant or deny the application within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the administrator and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(5). A transfer shall not take place until the department is notified by the Kentucky ***Department of*** Revenue~~[Cabinet]~~ that the licensee's indebtedness has been paid or resolved to the ***Department of Revenue's***~~[cabinet's]~~satisfaction. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 409. KRS 243.710 is amended to read as follows:

Each wholesaler shall pay to the ***Department of Revenue***~~[cabinet]~~ five cents ($0.05) per case on each case of distilled spirits sold by him in the state. This tax shall be computed each month according to the report required to be filed by KRS 243.850 and shall be paid on or before the date in each succeeding month when reports are required to be filed.

Section 410. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules

and regulations of the ***Department of*** Revenue [~~Cabinet~~]designed reasonably to protect the revenues of the Commonwealth.

(b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.

(c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the ***Department of*** Revenue[~~ Cabinet~~].

(e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the ***Department of*** Revenue[~~ Cabinet~~] designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the ***Department of*** Revenue[~~ Cabinet~~]. In order to so qualify, each wholesaler shall furnish to the ***Department of*** Revenue[~~ Cabinet~~] a certified copy of the bond required to be filed with the Cabinet of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

(3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the ***Department of*** Revenue[~~ Cabinet~~] in such manner as the ***Department of Revenue***[~~cabinet~~] may require.

(4) The ***Department of Revenue***[~~cabinet~~] shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the ***Department of Revenue***[~~cabinet~~] and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the ***Department of*** Revenue[~~ Cabinet~~] of all malt beverage taxes due, with penalties and interest.

Section 411. KRS 243.790 is amended to read as follows:

The sale or distribution of alcoholic beverages manufactured in or imported into this state for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state shall not be subject to the tax imposed by KRS 243.720. Provided, however, the ***Department of*** Revenue[~~ cabinet~~] may, when necessary for the purpose of control enforcement or protection of revenue, prescribe the conditions under which containers of such alcoholic beverages for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state may be kept and trafficked in without payment of the tax.

Section 412. KRS 243.850 is amended to read as follows:

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the twentieth day of each month, render to the ***Department of*** Revenue[~~ Cabinet~~] a statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the ***Department of*** Revenue[~~ Cabinet~~] such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that the ***Department of*** Revenue[

~~Cabinet]~~ shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof.

Section 413. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at the rate of nine percent (9%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the ***Department of*** Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 2004, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

Section 414. KRS 244.150 is amended to read as follows:

(1) Each licensee under KRS 243.020 to 243.670 shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the ***Department of*** Revenue~~[Cabinet]~~, adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages, in the manner required by regulations of the department and the ***Department of*** Revenue~~[Cabinet]~~.

(2) The commissioner may require common carriers to provide information in such form as he or she deems wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

Section 415. KRS 247.910 is amended to read as follows:

For purposes of KRS 247.900 to 247.920:

(1) "Alcohol production facility" shall mean and include any property or any facility which is not fueled by petroleum but fueled by Kentucky coal, or in the process of converting to the use of coal with the completion date to be in two (2) years or less, and designed, installed, or constructed as a component part of any commercial or industrial premises for the primary purpose of producing ethanol derived from agricultural products or by-products for use as a motor fuel;

(2) "Gasohol" means a fuel containing a mixture of gasoline and at least ten percent (10%) ethanol which is at least one hundred ninety-eight (198) proof for use in motor vehicles;

(3) "Alcohol production tax exemption certificate" shall mean that certificate issued by the ***Department of*** Revenue~~[Cabinet]~~ pursuant to KRS 247.920; and

(4) "Ethanol" means ethyl alcohol produced from grain or other agricultural products or by-products for use as a motor fuel.

Section 416. KRS 247.920 is amended to read as follows:

(1) Application for an alcohol production exemption certificate shall be filed with the ***Department of*** Revenue~~[Cabinet]~~ in such manner and in such form as may be prescribed by regulations issued by the ***Department of*** Revenue~~[Cabinet]~~ and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the ***Department of*** Revenue~~[Cabinet]~~ for the proper administration of KRS 247.910 and this section. The Kentucky Coal Council shall provide technical assistance and factual information as requested in writing by the ***Department of*** Revenue~~[Cabinet]~~. If the ***Department of*** Revenue~~[Cabinet]~~ finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before issuing an alcohol production tax exemption certificate, the ***Department of*** Revenue~~[Cabinet]~~ shall give notice in writing by mail to the Kentucky Coal Council, and shall afford to the applicant and to the Kentucky Coal Council an opportunity for a hearing. On like notice and opportunity for a hearing, the ***Department of*** Revenue~~[Cabinet]~~ shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.

(3) If the circumstances so require, the ***Department of*** Revenue[~~ Cabinet~~], in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the ***Department of*** Revenue[~~ Cabinet~~] revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Kentucky Coal Council. Notice of an order of the ***Department of*** Revenue[~~ Cabinet~~] denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Kentucky Coal Council. The applicant or holder and the Kentucky Coal Council shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the ***Department of*** Revenue[~~ Cabinet~~] to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Kentucky Coal Council and the ***Department of*** Revenue[~~ Cabinet~~].

(8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Kentucky Coal Council and to the ***Department of*** Revenue[~~ Cabinet~~].

(9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 417. KRS 248.705 is amended to read as follows:

(1) Forty million dollars ($40,000,000) of the moneys credited to the agricultural development fund as set out in KRS 248.703(1)(a) shall be set aside to supplement Phase II on April 26, 2000. Additional funds shall be set aside to supplement Phase II funding as needed from moneys credited to the agricultural development fund after June 30, 2000.

(2) Phase II payments shall be supplemented each year for tobacco growers and quota owners so that the total amount available for payment is maintained at one hundred fourteen million dollars ($114,000,000) each year. If the Phase II supplement set aside referred to in subsection (1) of this section falls below the amount needed to reach the one hundred fourteen million dollar ($114,000,000) level in any year before the end of the twelve (12) year Phase II funding program, procedures outlined in subsection (3) of this section shall be followed.

(3) (a) If the moneys set aside for Phase II supplement before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar ($114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred fourteen million dollars ($114,000,000) per year for each of the remaining eleven (11) years of the Phase II funding program shall continue to be provided to the Phase II set aside from funds received in the tobacco settlement agreement fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II supplement to assure availability of the one hundred fourteen million dollar ($114,000,000) funding level for that year shall be taken from the agricultural development fund. When a determination is made that funds are needed, funds shall be taken from the agricultural development fund before any other distributions are made following the next master settlement payment in April of each year. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar ($114,000,000) level shall be returned to the agricultural development fund.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if the moneys required to supplement the Phase II funding at the one hundred fourteen million dollar ($114,000,000) level are less than twenty million dollars ($20,000,000) in a year, the amount shall be deferred to a later year until at least a deficit of twenty million dollars ($20,000,000) is achieved before supplement payments are made.

(4) The Tobacco Settlement Trust Corporation created in KRS 248.480 shall provide for distribution of the Phase II supplement funds. The corporation shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list

of supplement payment recipients to the ***Department of*** Revenue[~~ Cabinet~~] rather than to the trustee of the National Tobacco Grower Settlement Trust. The ***Department of*** Revenue[~~ Cabinet~~] shall process the information and issue the checks at no charge to the Agricultural Development Board. The Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota owners.

Section 418. KRS 248.750 is amended to read as follows:

As used in KRS 138.146 and 248.750 to 248.769:

(1) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue[~~ Cabinet~~];

(2) "Cigarettes" means cigarettes as defined in KRS 138.130;

(3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);

(4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;

(5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;

(6) "Package" means package as is defined in 15 U.S.C. sec. 1332(4); and

(7) "Person" means person as defined in KRS 446.010.

Section 419. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The ***department***[~~cabinet~~] shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. All cigarette tax evidence prescribed by the ***department***[~~cabinet~~] shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence. The ***department***[~~cabinet~~] shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) Units of cigarette tax evidence shall be sold at their face value, but the ***department***[~~cabinet~~] shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value. The ***department***[~~cabinet~~] shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the ***department***[~~cabinet~~]. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the ***department***[~~cabinet~~] for credit or refund for any reason satisfactory to the cabinet.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the ***department***[~~cabinet~~] of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the ***department***[~~cabinet~~]. The written notice may also be directed to the ***commissioner of the Department***[~~secretary~~] of Revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the ***department***[~~cabinet~~], and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 420. KRS 248.754 is amended to read as follows:

On or before the fifteenth business day of each month, each person licensed to affix the stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 shall file with the ***department***[~~cabinet~~], for all cigarettes imported into the United States to which the person has affixed the stamp required by KRS 138.146 or made other evidence of tax payment as provided in KRS 138.155 in the preceding month, a copy of the customs certificates required by 19 U.S.C. sec. 1681a(c) for the entry of cigarettes into the United States.

Section 421. KRS 248.756 is amended to read as follows:

(1) The ***department***[~~cabinet~~] may revoke or suspend the license issued in accordance with KRS 138.195 of any licensee and impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes involved or five thousand dollars ($5,000) upon finding a violation by the licensee of KRS 248.752 or 248.754.

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this Commonwealth in violation of KRS 248.752 or 248.754 shall be treated as contraband under KRS 138.165 and be subject to seizure and forfeiture. Notwithstanding the provisions of KRS 138.165, all cigarettes seized and forfeited shall be destroyed. Cigarettes shall be treated as contraband whether the violation of KRS 248.752 or 248.754 is knowing or otherwise.

Section 422. KRS 262.765 is amended to read as follows:

(1) The board of directors of a watershed conservancy district shall prepare and furnish to the property valuation administrator by January 1 each year a list of the landowners in each county involved showing the real property subject to assessment, and the property valuation administrator of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the property valuation administrator by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.

(2) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value or acreage of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the ***Department of*** Revenue [~~Cabinet~~].

Section 423. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

  (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

  (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

  (c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;

  (d) Contain a certificate from the ***Department of*** Revenue[~~ Cabinet~~] reciting that all taxes owed by the corporation have been paid; and

  (e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

(4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 424. KRS 273.3182 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 273.318 or revoked under the provisions of KRS 273.367, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

  (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

  (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

  (c) State that the corporation's name satisfies the requirements of KRS 273.177;

  (d) Contain a certificate from the ***Department of*** Revenue[~~ Cabinet~~] reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the fee for filing a statement or report provided for in KRS 273.368(1)(j) and the current fee for filing each delinquent annual report provided for in KRS 273.368.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

Section 425. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company by mailing the notice by first class mail to the limited liability company at its registered office.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. State that the limited liability company's name satisfies the requirements under KRS 275.100;

4. Contain a certificate from the Kentucky ***Department of*** Revenue~~[Cabinet]~~ stating that all taxes owed by the limited liability company have been paid; and

5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and

2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 426. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the commission, including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to its jurisdiction, the ***Department of*** Revenue[~~ Cabinet~~] shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar year as modified by KRS 278.150, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed two (2) mills on intrastate receipts as so modified, which shall be deposited into the State Treasury to the credit of the general fund. The sum by each utility shall not be less than fifty dollars ($50) in any one (1) year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

(3) The commission, upon application by a utility, shall authorize the utility to adjust its rates to recover, within not more than one (1) year, any change in the annual assessment and any costs imposed by commission order for the fees and expenses of consultants. The application, and any hearing or other proceedings thereon, shall be limited to the amount of such adjustment.

Section 427. KRS 278.150 is amended to read as follows:

(1) The commission shall, on or before June 1, certify to the ***Department of*** Revenue[~~ Cabinet~~] and the Finance and Administration Cabinet the amount of intrastate business of each utility in the state subject to its jurisdiction during the previous calendar year. The commission shall, when certifying the intrastate sales of retail electric suppliers, deduct from such sales one-half (1/2) of the applicable wholesale power costs, provided the utility from which such wholesale power purchases were made pays assessment on the full wholesale value of its gross intrastate sales in Kentucky. When certifying the intrastate sales of retail electric suppliers not subject to the jurisdiction of the commission for rates, the commission shall deduct one-half (1/2) of their actual intrastate sales. All utilities classified as retail electric suppliers shall pay assessments based on the amount of intrastate sales less deductions as certified by the commission.

(2) The Finance and Administration Cabinet shall, on or before June 10, establish the assessment rate and give written notification thereof to the ***Department of*** Revenue[~~ Cabinet~~] and the commission. The ***Department of*** Revenue[~~ Cabinet~~] shall collect and pay the assessment into the State Treasury to the credit of the general expenditure fund. All such assessments shall be paid into the State Treasury through the ***Department of*** Revenue[~~ Cabinet~~] on or before July 31 of the year in which the assessments are made.

(3) If any amount in the special fund for the maintenance of the commission remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 428. KRS 281.625 is amended to read as follows:

(1) (a) Upon the filing of an application for a certificate or permit or for amendment or for sale, transfer, or lease, or for change in route, or for abandonment of a certificate or permit, the department shall, within a reasonable time, fix the time and place for a hearing.

(b) The department shall mail written notice of the hearing, and the right to file a protest, in accordance with the regulations of the department and KRS Chapter 13B, to the applicant and every authorized carrier, including railroads, serving any part of the route proposed to be served or abandoned by the applicant. The department may also give similar notice to any other person, who, in the opinion of the department, may be interested in or affected by the granting of the application.

(2) If a protest is filed, the department shall hold an administrative hearing on the application. The department, in its discretion, may hold a hearing if no protest is filed. Hearings conducted under this section shall be conducted in accordance with KRS Chapter 13B. Any person having interest in the subject matter may, in accordance with the regulations prescribed therefor, file a protest to the granting, in whole or in part, of the application.

(3) If the application is for a nonprofit bus certificate and no protest is filed, the department may grant the certificate without a hearing, provided the provisions of subsection (3) of KRS 281.630 or KRS 281.801 are met.

(4) The department may, if the application is solely for rights previously granted by the Interstate Commerce Commission, dispense with the holding of a hearing.

(5) Persons engaged in the transportation in interstate commerce in Kentucky of any commodity exempted by the Interstate Commerce Commission from regulation shall be subject to the same Kentucky requirements and regulations as if the persons were transporting commodities not exempted by the Interstate Commerce Commission, except that in lieu of filing or registering with the department a certificate of public convenience and necessity as issued by the Interstate Commerce Commission, the persons shall apply to the department for a permit or certificate restricted to interstate commerce and the permit or certificate may be issued without a hearing.

(6) If an applicant has been granted an irregular route common carrier certificate by the Interstate Commerce Commission, the

department may grant an irregular route common carrier certificate restricted to operation in interstate commerce, and on the granting of same, it shall notify the ***Department of*** Revenue[~~ Cabinet~~] of the applicant's operation.

(7) The department may grant a permit, upon application, to operate a U-drive-it without the holding of a hearing.

Section 429. KRS 281.900 is amended to read as follows:

(1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by KRS 281.905.

(2) The committee shall consist of the secretary of the Transportation Cabinet, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, the Speaker of the House, the President of the Senate, or their respective designated representatives, and nine (9) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the committee. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

(a) Three (3) members shall serve for a period of one (1) year;

(b) Three (3) members shall serve for a period of two (2) years; and

(c) Three (3) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the committee shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the committee shall serve without per diem or compensation.

Section 430. KRS 287.235 is amended to read as follows:

(1) Common trust funds shall not be considered as an entity for income or other tax purposes, nor shall investment in such fund make taxable any property which is otherwise exempt therefrom; and for purposes of taxation, the status of the common trust fund and of each participant therein shall be determined as though there were no common fund and as though each participant was the owner of its proportionate share of every asset held in the common fund. The bank or trust company maintaining said fund shall file a report of said fund with the property valuation administrator as of the ad valorem tax date and shall file annually such income tax information as may be required by the ***Department of*** Revenue[~~ Cabinet~~].

(2) Notwithstanding subsection (1) of this section, if a common trust fund transfers substantially all of its assets to one (1) or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are transferred and such stock is distributed by such common trust fund to the participants in such common trust fund in a transaction which would qualify under Section 584(h) of the Internal Revenue Code of 1986, as amended, for the nonrecognition of gain or loss of such transfer or distribution by the common trust fund, then no gain or loss shall be recognized for Kentucky income tax purposes by the common trust fund by reason of such transfer or distribution or by the participants in such common trust fund by reason of such exchange.

Section 431. KRS 299.530 is amended to read as follows:

All domestic mutual fire insurance companies referred to in KRS 299.470 or cooperative and assessment fire insurance shall by March 1 of each year, file with the ***Department of*** Revenue[~~ Cabinet~~] a report showing the amount of premiums contracted for by them in a re-insurance company during the preceding calendar year, and shall pay at the time of making the return a tax of two dollars ($2) on each one hundred dollars ($100) of the premiums paid to any company not authorized to do business in this state.

Section 432. KRS 304.4-030 is amended to read as follows:

Each domestic mutual insurer shall file with the ***Department of*** Revenue[~~ Cabinet~~] each year by March 1, a report showing the premiums paid by it during the preceding calendar year to all reinsurers, and shall accompany such report with payment of a tax of two percent (2%) of the amount of premiums so paid to insurers not authorized to transact business in this state at the time such reinsurance was so ceded.

Section 433. KRS 304.10-180 is amended to read as follows:

(1) Each broker shall pay the following taxes:

(a) A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the commissioner in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

(b) The premium surcharge tax, to be remitted to the Kentucky ***Department of*** Revenue[~~ Cabinet~~], in accordance with KRS 136.392; and

(c) The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 434. KRS 304.13-011 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary rating information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fees, rating rules, or any other similar information needed to determine the applicable rate or premium. This shall include underwriting rules, but only to the extent necessary to determine the rate or premium that will be applicable to a risk should the insurer decide to provide coverage. This does not include guidelines that relate to the selection of those risks that are acceptable to an insurer.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any other data relied on by the filer, descriptions of methods used in making the rates, and any other information required to be filed by the commissioner.

(4) "Personal risks" means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established to provide insurance coverage for a risk pursuant to which two (2) or more insurers jointly contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any entity, including its affiliates or subsidiaries, which either has two (2) or more member insurers or is controlled either directly or indirectly by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "Trending" is any procedure for projecting developed losses to the average date of loss, or premiums or exposures to the average date of writing, for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to acquisition, field supervision, and collection expenses, general expenses, and premium taxes, licenses, and fees.

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" means the loss cost per unit of exposure excluding all loss adjustment expenses.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in cost may be recognized.

(17) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to their ultimate anticipated value.

(18) “Experience rating” means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder’s loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(19) “Form provider” means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(20) “Loss adjustment expenses” means the expenses incurred by the insurer in the course of settling claims.

(21) “Prospective loss costs” means that portion of a rate that does not include provisions for expenses (other than loss

adjustment expenses) or profit, and are based on historical aggregate losses or output from simulation models and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective.

(22) "Rate" means the expected value of the future cost of insurance per exposure unit which accounts for the treatment of losses, expenses, and profit prior to any application of individual risk variations based on loss or expense considerations, but does not include minimum premium.

(23) "Special assessments" means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the special fund charge for workers' compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the ***Department of*** Revenue~~[Cabinet]~~ surcharge imposed by KRS Chapter 136.

(24) "Statistical agent" means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

Section 435. KRS 304.49-220 is amended to read as follows:

(1) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the ***Department of*** Revenue~~[Cabinet]~~ a statement under oath of all premium receipts on business written by the captive insurer during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of four-tenths of one percent (0.4%) on the first twenty million dollars ($20,000,000), and three-tenths of one percent (0.3%) on the next twenty million dollars ($20,000,000), and two-tenths of one percent (0.2%) on the next twenty million dollars ($20,000,000), and seventy-five thousandths of one percent (0.075%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurer during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(2) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the ***Department of*** Revenue~~[Cabinet]~~ a statement under oath of all assumed reinsurance premium receipts during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first twenty million dollars ($20,000,000) of assumed reinsurance premiums, and one hundred fifty thousandths of one percent (0.150%) on the next twenty million dollars ($20,000,000), and fifty thousandths of one percent (0.050%) on the next twenty million dollars ($20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (1) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.

(3) If the aggregate taxes to be paid by a captive insurer calculated under subsections (1) and (2) of this section amount to less than five thousand dollars ($5,000) in any year, the captive insurer shall pay a tax of five thousand dollars ($5,000) for such year.

(4) Two (2) or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurer.

(5) For the purposes of this section, common ownership and control shall mean:

(a) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and

(b) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two (2) or more corporations by the same member or members.

(6) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the company.

(7) The tax provided for in this section shall constitute all taxes collectible under the laws of Kentucky from any captive insurer, and the taxes imposed under this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district except as provided in KRS 136.320(6) and (7).

(8) The Kentucky ***Department of*** Revenue~~[Cabinet]~~ shall annually distribute ten percent (10%) of the premium tax revenues collected pursuant to this section to the Department of Insurance for the regulation of captive insurance companies under KRS 304.49-010 to 304.49-230.

Section 436. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the

liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky ***Department of*** Revenue~~[Cabinet]~~ shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the

insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Department for Employment Services, Cabinet for Workforce Development is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the ***Department of*** Revenue[~~ Cabinet~~] or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 437. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;

(c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the ***Department of*** Revenue[~~ Cabinet~~], of all entities subject to the assessments imposed in this chapter; and

(h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.

(5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

Section 438. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development, the secretary of the ***Finance and Administration***[~~Revenue~~] Cabinet, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 439. KRS 342.447 is amended to read as follows:

(1) All funds collected by insurance companies from their insureds, prior to October 26, 1987, for assessments of the Kentucky Reinsurance Association or special fund taxes and assessments of the Kentucky ***Department of*** Revenue[~~ Cabinet~~] not previously paid, shall be paid in full by January 1, 1988, to the Kentucky Workers' Compensation Funding Commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall conduct audits of insurance companies. The costs of such audits shall be borne by the Kentucky Workers' Compensation Funding Commission. The ***Department of*** Revenue[~~ Cabinet~~] may enter an agreement with the Department of Insurance for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence

within sixty (60) days from October 26, 1987, and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the ***commissioner***[~~secretary~~] of ***the Department of*** Revenue, the commissioner of insurance, the Kentucky Workers' Compensation Funding Commission, and the Governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the ***Department of*** Revenue[~~ Cabinet~~] shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the ***Department of*** Revenue[~~ Cabinet~~] shall institute a civil action in Franklin Circuit Court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The ***Department of*** Revenue[~~ Cabinet~~] shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund, or returns of any type made to insureds or group members after September 1, 1987.

Section 440. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the Department of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, and a certification from the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the ***commissioner***[~~secretary~~] of ***the Department of*** Revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the Fayette Circuit Court.

(5) The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(6) The department shall be authorized to seek injunctive relief for any violation of this section.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the ***commissioner***[~~secretary~~] of ***the Department of*** Revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 441. KRS 353.205 is amended to read as follows:

(1) The ***Department of*** Revenue[~~ Cabinet~~] shall submit to the department on or before September 1 of each year, beginning in 1995 for 1994 production data, statistics on crude oil as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the crude oil excise tax requirements of KRS Chapter 137 and statistics on natural gas production as reported to the ***Department of*** Revenue[~~ Cabinet~~] under the natural resources severance tax requirements of KRS Chapter 143A.

(2) The department shall organize the information it receives from the ***Department of*** Revenue[~~ Cabinet~~] into a standard format, and shall make it available for public release no earlier than January 1 nor later than March 1 of the following year, with the exception of the first year, when data shall be made available by September 1, 1996. The information shall be open for public inspection and available for sale at the offices of the department. The department may allow the Kentucky Geological Survey to use the production information in ongoing research as soon as it is obtained from the ***Department of*** Revenue[~~ Cabinet~~], so long as the information is not released to the public before January 1 of the year after it is reported.

(3) The ***Department of*** Revenue[~~ Cabinet~~] shall submit to the department the oil and gas production data which was reported in years prior to 1995, and the department shall make this information available for public release when it has been processed.

Section 442. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) ***"Commissioner"***[~~"Secretary"~~] means the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~] of the Commonwealth of Kentucky.

(3) ***"Department"***[~~"Cabinet"~~] means the ***Department of*** Revenue.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 443. KRS 365.350 is amended to read as follows:

(1) The ***department***[~~cabinet~~], or any person injured by any violation, or who may suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation or threatened violation. If a violation or threatened violation of KRS 365.260 to 365.380 shall be established, the court shall enjoin and restrain, or otherwise prohibit, the violations or threatened violation. In addition, the court shall

assess in favor of the plaintiff and against the defendant the cost of the suit, including reasonable attorney's fees. It shall not be necessary that actual damages to the plaintiff be alleged or proved, but if alleged and proved, the plaintiff in the action, in addition to injunctive relief, the costs of the suit, and reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) If no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and the costs of suit in any court of general jurisdiction.

Section 444. KRS 365.370 is amended to read as follows:

(1) The ***department***[~~cabinet~~] shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the ***department***[~~cabinet~~], it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The ***department***[~~cabinet~~] may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the ***department***[~~cabinet~~] promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.

(3) All of the powers vested in the ***commissioner***[~~secretary~~] and ***Department of*** Revenue[~~ Cabinet~~] by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order, or finding of the ***department***[~~cabinet~~], suspending or revoking any license, may appeal to the Kentucky Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe.

Section 445. KRS 365.390 is amended to read as follows:

(1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement and administration fee to the ***Department of*** Revenue[~~ Cabinet~~] on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement and administration fee to recover applicable costs shall be calculated annually by the ***commissioner***[~~secretary~~] of revenue who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the ***Department of*** Revenue[~~ Cabinet~~] shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the ***Department of*** Revenue[~~ Cabinet~~] a cigarette enforcement and administration account, which will be subject to the provisions of the restricted fund group, as provided in KRS 45.305, and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the ***Department of*** Revenue[~~ Cabinet~~] related to the administration and enforcement of KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement and administration fee levied in subsection (1) of this section shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 446. KRS 365.665 is amended to read as follows:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which the merchant desires to transact business at least ten (10) days prior to transacting business in the county. The application for permit shall be designed and distributed by the ***Department of*** Revenue [~~Cabinet~~], shall be filed by the transient merchant with the county clerk, or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally and shall include but not be limited to the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number, and the Social Security numbers, of all salesmen employed by the applicant, or representing the applicant, in the transaction of business in the Commonwealth of Kentucky;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in KRS 365.680. The absence of any of the above information shall result in the denial of the permit by the county clerk.

Section 447. KRS 365.670 is amended to read as follows:

The county clerk shall forward a copy of each approved application to the ***Department of*** Revenue[~~ Cabinet~~] and to the office of the Attorney General within ten (10) days of approval.

Section 448. KRS 387.025 is amended to read as follows:

(1) Any interested person or entity may petition the District Court for the appointment of a guardian or limited guardian for an unmarried minor.

(2) Any interested person or entity may petition the District Court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.

(3) The petition for appointment shall set forth the following:

- (a) The name and address of the minor;
- (b) The date of birth of the minor;
- (c) The name and address of the minor's spouse, if any;
- (d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;
- (e) The name and address of the individual or facility having custody of the minor;
- (f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;
- (g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;
- (h) The name and address of the petitioner;
- (i) The name and address of the petitioner's attorney, if any; and
- (j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.

(4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:

- (a) Name, address, and age of the applicant;
- (b) The applicant's relationship to the minor, if any;
- (c) Whether or not the applicant has ever been convicted of a crime; and
- (d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.

(5) A duplicate copy of the petition and application shall be mailed by the clerk to the ***commissioner***[~~secretary~~] of the ***Department of*** Revenue[~~ Cabinet~~]. The District Court shall appoint a time for hearing the petition and application. Notice of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities required to be named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.

Section 449. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the ***Department of*** Revenue[~~ Cabinet~~] from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 450. KRS 438.337 is amended to read as follows:

(1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.

(2) The Department of Alcoholic Beverage Control shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the ***Department of*** Revenue[~~ Cabinet~~] from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be deposited in a trust and agency account created in the State Treasury, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.

(3) The Department of Alcoholic Beverage Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.

(4) The Department of Alcoholic Beverage Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed

federal guidelines preventing tobacco sales to minors.

Section 451. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the ***Department of*** Revenue[~~ Cabinet~~] and required to be filed with the ***Department of*** Revenue[~~ Cabinet~~] as prescribed by law.

Section 452. KRS 11.511 is amended to read as follows:

(1) There is hereby established a position of chief information officer for the Commonwealth ***within the Finance and Administration Cabinet***.[~~ This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.~~

~~(2) The chief information officer shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.~~]

(2)[~~(3)~~] The chief information officer shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the chief information officer shall include but not be limited to:

(a) Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

(b) Integrating information technology and resources plans with agency business plans;

(c) Overseeing shared Commonwealth information technology resources and services;

(d) Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

(e) Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(f) Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(g) Establishing performance measurement and benchmarking policies and procedures;

(h) Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the Governor and the General Assembly; and

(i) Managing the Governor's Office for Technology and its budget.

Section 453. KRS 11.507 is amended to read as follows:

(1) The roles and duties of the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The chief information officer ***for the Commonwealth*** is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The[~~ Governor's~~] Office for Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the chief information officer finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the[~~ Governor's~~] Office for Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the chief information officer or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

Section 454. KRS 11.509 is amended to read as follows:

(1) To accomplish the work of the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the[~~ Governor's~~] Office for Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the[~~ Governor's~~] Office for Technology.

(3) The information, technology, personnel, agency resources, and confidential records of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be excluded from the provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 and shall not be under the authority of the[~~ Governor's~~] Office for Technology.

Section 455. KRS 11.5163 is amended to read as follows:

(1) The chief information officer ***for the Commonwealth*** shall establish and implement a statewide public safety interoperability plan. This plan shall include the development and recommendation of architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state agencies, and shall forward these to the chief information officer for final approval.

(3) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Department of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(4) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(5) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(6) The committee shall be attached to the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(7) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(8) The committee may establish additional working groups as determined by the committee.

Section 456. KRS 11.550 is amended to read as follows:

(1) The Telehealth Board is created and placed for administrative purposes under the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology. This nine (9) member board shall consist of the:

(a) Chancellor, or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) Chief information officer ***for the Commonwealth***, or a designee[~~, of the Governor's Office for Technology~~]; and

(e) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the~~[Governor's]~~ Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 457. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the ***Finance and Administration Cabinet's***~~[Governor's]~~ Office for Technology are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the~~[Governor's]~~ chief information officer ***for the Commonwealth***, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 458. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided by the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 459. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.

(6) The ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology may charge any agency of local

government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, the[~~ Governor's~~] Office for Technology's operating account.

(7) All receipts which accrue as the result of the[~~ Governor's~~] Office for Technology's providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, the[~~ Governor's~~] Office for Technology's operating account.

Section 460. KRS 48.810 is amended to read as follows:

Each program cabinet, the Department for Local Government, the Department of Military Affairs, and the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

(1) Each strategic plan shall include, but not be limited to:

(a) A statement of the cabinet or administrative entity's value, vision, and mission;

(b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request and the six (6) year capital plan of the cabinet or administrative entity;

(c) A brief summary of a situation analysis conducted by the program cabinet or administrative entity;

(d) Identification of measurable goals for the next four (4) years;

(e) Specification of objectives to meet the stated goals;

(f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives; and

(g) A progress report providing data and information on the performance indicators set forth in the program cabinet or administrative entity's most recent strategic plan.

(2) On or before September 1 of each even-numbered fiscal year, program cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the office of the state budget director, or its designee, which provides data and information regarding the progress the program cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.

(3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by program cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.

(4) The[~~ Governor's~~] Office for Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The[~~ Governor's~~] Office for Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

Section 461. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or his or her designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator, appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629, the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 462. KRS 186A.025 is amended to read as follows:

(1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 463. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology for inclusion in the AVIS database.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

(a) The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

(b) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

(c) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

(d) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by subsection (2) of this section. The notice that the department gives to the county attorney in accordance with subsection (2) of this section shall include a certified copy of the person's driving record which shall include:

(a) The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

(b) A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with subsection (2) of this section.

(4) The certified copies sent by the department described in subsection (3) of this section, shall be prima facie evidence of a violation of KRS 304.39-080.

(5) If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

Section 464. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based Services. The committee shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for Families and Children or the secretary's designee, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

(b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

(a) A mission statement;

(b) Measurable goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;

(b) Reasons for placement disruptions;

(c) Length of time between removal and establishment of permanency;

(d) Reabuse or reoffense rates;

(e) Fatality rates;

(f) Injury and hospitalization rates;

(g) Health care provision rates;

(h) Educational achievement rates;

(i) Multiple placement rates;

(j) Sibling placement rates;

(k) Ethnicity matching rates;

(l) Family maintenance and preservation rate; and

(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 465. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy licensed by the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or who is licensed by the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

(a) A drug administered directly to a patient; or

(b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser.

(6) The Cabinet for Health Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) A state, federal, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

(e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient; or

(f) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction.

(7) The Cabinet for Health Services, all law enforcement officers, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(8) The data and any report obtained therefrom shall not be a public record.

(9) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(10) Knowing disclosure of transmitted data to a person not authorized by subsection (6) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(11) The ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(12) Provisions in subsections (1) to (10) of this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (11) of this section.

Section 466. KRS 369.118 is amended to read as follows:

(1) Except as otherwise provided in KRS 369.112(6), each governmental agency of this state, in compliance with standards established by the ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology, shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (1) of this section:

(a) The[~~ Governor's~~] Office for Technology, giving due consideration to security, may specify the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, each governmental agency, giving due consideration to security, may specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) The[~~ Governor's~~] Office for Technology and the Department for Libraries and Archives, giving due consideration to security, may specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(d) Each governmental agency, giving due consideration to security, may specify any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(3) Except as otherwise provided in KRS 369.112(6), KRS 369.101 to 369.120 does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Section 467. KRS 369.119 is amended to read as follows:

The ***Finance and Administration Cabinet's***[~~Governor's~~] Office for Technology, which adopts standards pursuant to KRS 369.118(2)(a), may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Section 468. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 469. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends or repeals the administrative regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the Administrative regulations that require any changes to the regulations compiler.

Section 470. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2003-064, dated December 23, 2003, relating to the Finance and Administration Cabinet and the abolishing of the Revenue Cabinet to the extent it is not otherwise confirmed or superseded by this Act.

Motions, Petitions, and Communications (Continued)

Representative Riner moved to withdraw Floor Amendment No. 2 and Floor Amendment No. 3 to **HB 413**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **HB 10, 297, 303, 435, 436, 477, 510,** and **HCR 202**. Agreed.

Representative Riner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riner moved that he be recorded as voting "nay" on **HB 397**. Agreed.

Representative Montell moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Montell moved that he be recorded as voting "nay" on **HJR 104**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 558** and **HJR 103**. Agreed.

Representative Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Belcher moved that she be recorded as voting "nay" on **HB 397**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 558**. Agreed.

Representative T. Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Thompson moved that he be recorded as voting "yea" on **HB 563**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 139, HB 10, 297, 202, 303, 435, 436, 477,** and **510**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 140**, by Representative Vincent:

HB 140, On page 1, lines 6 to 10, by deleting same and inserting in lieu thereof the following:

"*not organized to operate at a profit, excluding financial institutions duly organized and otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency under the laws of this Commonwealth, any other state, or the Untied States. The term includes an entity that destroys records;*".

Floor Amendment No. 4 to the Committee Substitute to **HB 650**, by Representative Damron:

HB 650, On page 1, by deleting lines 1 to 5 in their entirety and renumbering subsequent sections accordingly; and

On page 2, line 17, by deleting "*and*"; and

On page 2, line 19, by deleting "." and inserting in lieu thereof ";"; and

On page 2, after line 19, by inserting:

"*(4) Have a process for the selection of health care providers who will be on the insurer's list of participating providers, with written policies and procedures for review and approval used by the insurer. The insurer shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;*

(5) Not contract with a health care provider to limit the provider's disclosure to a covered person, or to another person on behalf of a covered person, of any information relating to the covered person's medical condition or treatment options;

(6) Not penalize a health care provider, or terminate a health care provider's contract with the insurer, because the provider discusses medically necessary or appropriate care with a covered person or another person on behalf of a covered person. The health care provider may:

(a) Not be prohibited by the insurer from discussing all treatment options with the covered person; and

(b) Disclose to the covered person or to another person on behalf of a covered person other information determined by the health care provider to be in the best interests of the covered person;

(7) Include in any agreements it enters into with providers for the provision of health care services a clause stating that, upon request, the insurer shall provide the provider with specific fees for requested codes applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request;

(8) Establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the

termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board; and

(9) Meet all requirements provided under KRS 304.17A-600 to 304.17A-633 and KRS 304.17A-700 to 304.17A-730."; and

On page 16, line 19, before "an enrollee" by inserting "*a covered person*" and by placing brackets around and striking through "an enrollee"; and

On page 19, by deleting lines 12 to 27 in their entirety; and

On page 20, by deleting lines 1 to 27 in their entirety; and

On page 21, by deleting lines 1 to 27 in their entirety; and

On page 22, by deleting line 1 in its entirety and by renumbering subsequent sections accordingly; and

On page 43, line 3, by deleting "2" and inserting in lieu thereof "1".

Floor Amendment No. 1 to **HB 550**, by Representative Webb:

HB 550, On page 11, lines 10 and 11 , delete "*and sanctions that may be imposed if the conditions are violated*"; and

On page 11, line 11, before "A child", insert "*At the time the child is placed on probation, the court shall explain to the child the sanctions which may be imposed if the court's conditions are violated, and shall include notice of those sanctions as part of its written order of probation.*"; and

From page 15, line 22, through page 17, line 6, delete Section 8 in its entirety and insert in lieu thereof the following:

"Section 8. KRS 640.030 is amended to read as follows:

A youthful offender, who is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the Department of Juvenile Justice or by its designated representative;

(2) Except as provided in KRS 640.070, any sentence imposed upon the youthful offender shall be served in a facility or program operated or contracted by the Department of Juvenile Justice until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. The Department of Juvenile Justice shall take custody of a youthful offender, remanded into its custody, within sixty (60) days following sentencing. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge;

(b) Whether the youthful offender shall be returned to the Department of Juvenile Justice to complete a treatment program, which treatment program shall not exceed *the youthful offender's attainment of the age of eighteen (18) years and five (5) months*[~~a period in excess of six (6) months~~]. At the conclusion of the treatment program[~~ or at the expiration of six (6) months, whichever first occurs~~], the individual shall be returned to the sentencing court for a determination under paragraph (a) or (c) of this subsection; or

(c) Whether the youthful offender shall be incarcerated in an institution operated by the Department of Corrections;

(3) If a youthful offender has attained the age of eighteen (18) *years but less than eighteen (18) years and five (5) months* prior to sentencing, that individual shall be returned to the sentencing court *upon attaining the age of eighteen (18) years and five (5) months*[~~at the end of a six (6) month period~~] if that individual has been sentenced to a period of placement or treatment with the Department of Juvenile Justice. The court shall have the same dispositional options as currently provided in subsection (2)(a) and (c) of this section; and

(4) *The Department of Juvenile Justice shall inform the sentencing court of any youthful offender in their custody pursuant to this section who has attained the age of eighteen (18) years and five months, and the court shall enter a court order directing the sheriff or jailer to transport the youthful offender to the county jail to await sentencing pursuant to subsection (2)(a) or (c) of this section; and*

(5) KRS 197.420 to the contrary notwithstanding, a youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program by the Department of Juvenile Justice pursuant to KRS 635.500 and as mandated by KRS 439.340(11) unless the youthful offender has been transferred to the Department of Corrections."; and

From page 19, line 17, through page 20, line 13, delete Section 12 in its entirety and renumber subsequent sections accordingly.

Floor Amendment No. 6 to **HB 413**, by Representative Walton:

HB 413, On Page 1, lines 13 to 24, by deleting them in their entirety and inserting in lieu thereof,

"*as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.*

(4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.

(5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:

(a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or that contract for police services;

(b) Fifty percent (50%) of the total shall be distributed to local governments with police departments or local governments that contract for police services on a per capita basis according to the number of certified police officers employed by the police department on July 1 each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars ($60,000) it expends during each fiscal year for police services under a written contract; and

(c) Twenty percent (20%) of the total shall be distributed to counties with fiscal responsibilities for jails or the transporting of prisoners as follows:

1. Thirty percent (30%) shall be distributed equally to all counties with fiscal responsibilities for jails or the transporting of prisoners; and

2. Seventy percent (70%) shall be distributed to counties with fiscal responsibilities for jails or the transporting of prisoners on a per capita basis according to the number of persons estimated to be residing within the county each year based upon census data provided by the U.S. Bureau of the Census."; and

On Page 2, after line 3, by inserting and underlining the following:

"*(7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.*"; and

On Page 2, line 4, by renumbering subsection "*(7)*" as subsection "*(8)*"; and

On Page 2, lines 19 through 27, by deleting them in their entirety and inserting in lieu thereof,

"*as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.*

(4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.

(5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:

(a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or local governments that contract for police services;

(b) Fifty percent (50%) of the total shall be distributed to local governments with police departments on a per capita basis according to the number of certified police officers employed by the police department on July 1 each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars ($60,000) it expends during each fiscal year for police services under a written contract; and

(c) Twenty percent (20%) of the total shall be distributed to counties with fiscal responsibilities for jails or the transporting of prisoners as follows:

1. Thirty percent (30%) shall be distributed equally to all counties with fiscal responsibilities for jails or the transporting of prisoners; and

2. Seventy percent (70%) shall be distributed to counties with fiscal responsibilities for jails or the transporting of prisoners on a per capita basis according to the number of persons estimated to be residing within the county each year based upon census data provided by the U.S. Bureau of the Census.

(6) On or before August 1 of each year, the Justice Cabinet shall certify to the Finance and Administration Cabinet the

number of certified police officers employed by each local government.

(7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.

(8) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary for the administration of this section."; and

On Page 3, lines 1 through 9, by deleting them in their entirety.

Floor Amendment No. 7 to **HB 413**, by Representative Walton:

HB 413, On Page 1, line 13, by deleting "*(4)*" and inserting in lieu thereof "*(5)*"; and

On Page 1, line 14, after "*departments*" but before the period, by inserting and underlining "*or a county which received funding as provided by KRS 24A.190 to 24A.193" and*

On Page 1, line 16, after "*department*" but before the period, by inserting and underlining "*, or in counties which do not have a police department, the funds may be used by the fiscal court for other law enforcement activities which may include the funding of jail operations, the transporting of prisoners, or the operation of the sheriff's department*"; and

On Page 1, line 20, after "*departments*" but before the semi colon, by inserting and underlining "*and those counties that do not have police departments but received funding as provided by KRS 24A.190 to 24A.193*" and

On Page 1, line 24, by deleting it in its entirety and inserting in lieu thereof "*on July 1 each year and to counties that do not have police departments but received funding as provided by KRS 24A.190 to 24A.193, on a per capita basis according to the number of certified deputy sheriffs employed by the sheriff's department.*"; and

On Page 2, line 2, after "*officers*" by inserting and underlining "*and the number of certified deputy sheriffs*"; and

On Page 2, line 19, by deleting "*(4)*" and inserting in lieu thereof "*(5)*"; and

On Page 2, line 20, after "*departments*" but before the period, by inserting and underlining "*or a county which received funding as provided by KRS 24A.190 to 24A.193" and*

On Page 2, line 22, after "*departments*" but before the period, by inserting and underlining "*or in counties which do not have a police department, the funds may be used by the fiscal court for other law enforcement activities which may include the funding of jail operations, the transporting of prisoners, or the operation of the sheriff's department*"; and

On Page 2, line 26, after "*departments*" but before the semi colon, by inserting and underlining "*and those counties that do not have police departments but received funding as provided by KRS 24A.190 to 24A.193*" and

On Page 3, line 3, after "*year*" but before the period, by inserting and underlining "*and to counties, that do not have police departments but received funding as provided by KRS 24A.190 to 24A.193, on a per capita basis according to the number of certified deputy sheriffs employed by the sheriff's department*"; and

On Page 3, line 5, after "*officers*" by inserting and underlining "*and the number of certified deputy sheriffs*" and

On Page 5, line 18, by deleting "with police departments"; and

On Page 5, line 19, after "loss of revenue" by inserting "which had been utilized for public safety activities".

Floor Amendment No. 8 to **HB 413**, by Representative Riggs:

HB 413, On Page 1, lines 13 to 24, by deleting them in their entirety and inserting in lieu thereof,

"*as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.*

(4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.

(5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:

(a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or that contract for police services;

(b) Fifty percent (50%) of the total shall be distributed to local governments with police departments or local governments that contract for police services on a per capita basis according to the number of certified police officers employed by the police department on July 1 each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars

($60,000) it expends during each fiscal year for police services under a written contract; and

(c) Twenty percent (20%) of the total shall be distributed equally to counties with fiscal responsibilities for jails or the transporting of prisoners."; and

On Page 2, after line 3, by inserting and underlining the following:

"*(7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.*"; and

On Page 2, line 4, by renumbering subsection "*(7)*" as subsection "*(8)*"; and

On Page 2, lines 19 through 27, by deleting them in their entirety and inserting in lieu thereof,

"*as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.*

(4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.

(5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:

(a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or local governments that contract for police services; and

(b) Fifty percent (50%) of the total shall be distributed to local governments with police departments on a per capita basis according to the number of certified police officers employed by the police department on July 1 each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars ($60,000) it expends during each fiscal year for police services under a written contract;

(c) Twenty percent (20%) of the total shall be distributed equally to counties with fiscal responsibilities for jails or the transporting of prisoners.

(6) On or before August 1 of each year, the Justice Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.

(7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.

(8) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary for the administration of this section."; and

On Page 3, lines 1 through 9, by deleting them in their entirety.

Floor Amendment No. 9 Title to **HB 413**, by Representative Riggs:

HB 413, By amending the title to read:

"AN ACT making an appropriation for local government public safety and declaring an emergency.".

House Floor Amendment No. 1 to **SB 83**, by Representative Nunn:

SB 83, On page 17, after line 11 by inserting the following:

"Section 2. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus Property, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(2) The Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful

owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments ***or for the purchase of firearms or ammunition***. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

(4) The Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section."

House Floor Amendment No. 2 to **SB 83**, by Representative Nunn:

SB 83, On page 17, after line 11 by inserting the following:

"Section 2. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state, if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) ***1. Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency shall be disposed of in any of the following manners:***

a. Firearms and ammunition may be retained for official use;

b. Firearms and ammunition may be exchanged with a federally licensed firearms dealer, importer, or manufacturer for firearms, ammunition, or equipment; or

c. Firearms and ammunition may be transferred to the Kentucky State Police for disposition as provided by KRS 16.220.

2. The transfer or exchange shall occur not more than one hundred eighty (180) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than one hundred eighty (180) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police or exchanged with a federally licensed firearms dealer, importer, or manufacturer not more than one hundred eighty (180) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or

otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.

[~~Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.~~]

(d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the

lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs."

House Floor Amendment No. 3 Title to **SB 83**, by Representative Nunn:

SB 83, Amend title to read as follows: "AN ACT relating to firearms and ammunition."

Floor Amendment No. 1 to **HCR 161**, by Representative Gray:

HCR 161, On page 1, lines 1 through 3, by deleting Section 1 in its entirety and replacing it with the following:

"Section 1. The General Assembly of the Commonwealth of Kentucky urges the United States Congress to enact legislation to provide an exclusion from federal income tax applicable to retirement income from sources other than Social Security as follows:

(1) For individuals whose gross retirement income is $50,000 or less, an exclusion of up to $25,000;

(2) For individuals whose gross retirement income is more than $50,000 and less than $75,000, an exclusion of $18,750;

(3) For individuals whose gross retirement income is more than $75,000 but less than $100,000, an exclusion of $12,500; and

(4) For individuals whose gross retirement income is more than $100,000 but less than $125,000, an exclusion of $6,250."

Floor Amendment No. 7 to the Committee Substitute to **HB 336**, by Representative Thomas:

HB 336, On page 3, after line 16, by inserting:

"*(4) Any person with feral cats on his premises shall make a reasonable effort to capture or vaccinate the cats. If a person is unable to capture or vaccinate the cats, and informs an animal control officer of the inability, that person will be presumed to have made a reasonable effort.*".

Floor Amendment No. 8 to the Committee Substitute to **HB 336**, by Representative Thomas:

HB 336, On page 6, line 12, after ",", by deleting the remainder of the line and by inserting in lieu thereof, "*a health officer or his agent may order the animal to be destroyed and tested for rabies.*".

Floor Amendment No. 2 to the Committee Substitute to **HB 562**, by Representative Hall:

HB 562, On page 17, between lines 3 and 4, by inserting the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) When a circuit clerk refers an applicant to the Transportation Cabinet or one of its field offices under the provisions of Sections 1 or 3 of this Act, the clerk shall submit to the cabinet in writing what documents are in question and what it is about the documents that call them into question.

(2) The Transportation Cabinet shall document all referrals to it by any circuit clerk under Sections 1 or 3 of this Act. The cabinet shall collect the following information on each applicant referred to it by the circuit clerk:

(a) Race;

(b) Gender;

(c) National origin; and

(d) Ethnicity.

(3) The Transportation Cabinet shall file a report with the Legislative Research Commission by September 30th of each year which summarizes the demographic information collected under subsection (2) of this section."; and

On page 17, line 4 by renumbering "Section 7" as "Section 8".

Floor Amendment No. 2 to the Committee Substitute to **HB 550**, by Representative Webb:

HB 550, On page 11, lines 10 and 11, delete "*and sanctions that may be imposed if the conditions are violated*"; and

On page 11, line 11, before "A child", insert "***At the time the child is placed on probation the court shall explain to the child the sanctions which may be imposed if the court's conditions are violated, and shall include notice of those sanctions as part of its written order of probation.***"; and

From page 15, line 22, through page 17, line 6, delete Section 8 in its entirety and insert in lieu thereof the following:

"Section 8. KRS 640.030 is amended to read as follows:

A youthful offender, who is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the Department of Juvenile Justice or by its designated representative;

(2) Except as provided in KRS 640.070, any sentence imposed upon the youthful offender shall be served in a facility or program operated or contracted by the Department of Juvenile Justice until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. The Department of Juvenile Justice shall take custody of a youthful offender, remanded into its custody, within sixty (60) days following sentencing. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge;

(b) Whether the youthful offender shall be returned to the Department of Juvenile Justice to complete a treatment program, which treatment program shall not exceed ***the youthful offender's attainment of the age of eighteen (18) years and five (5) months***~~[a period in excess of six (6) months]~~. At the conclusion of the treatment program~~[or at the expiration of six (6) months, whichever first occurs]~~, the individual shall be returned to the sentencing court for a determination under paragraph (a) or (c) of this subsection; or

(c) Whether the youthful offender shall be incarcerated in an institution operated by the Department of Corrections;

(3) If a youthful offender has attained the age of eighteen (18) ***years but less than eighteen (18) years and five (5) months*** prior to sentencing, that individual shall be returned to the sentencing court ***upon attaining the age of eighteen (18) years and five (5) months***~~[at the end of a six (6) month period]~~ if that individual has been sentenced to a period of placement or treatment with the Department of Juvenile Justice. The court shall have the same dispositional options as currently provided in subsection (2)(a) and (c) of this section; and

(4) ***The Department of Juvenile Justice shall inform the sentencing court of any youthful offender in their custody pursuant to this section who has attained the age of eighteen (18) years and five (5) months, and the court shall enter a court order directing the sheriff or jailer to transport the youthful offender to the county jail to await sentencing pursuant to subsection (2)(a) or (c) of this section; and***

(5) KRS 197.420 to the contrary notwithstanding, a youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program by the Department of Juvenile Justice pursuant to KRS 635.500 and as mandated by KRS 439.340(11) unless the youthful offender has been transferred to the Department of Corrections."; and

From page 19, line 17, through page 20, line 13, delete Section 12 in its entirety and renumber subsequent sections accordingly.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 77, Representative McKee

HB 390, Representative Hall

HCR 223, Representative Harper

Announcements

The following meetings were announced:

Majority Caucus - Upon Recess, Supreme Court Chamber

Minority Caucus - Upon Recess, Room 316

Committee on Tourism - 8:00 a.m., Wednesday, March 10, 2004

Committee on Government Contract Review - Upon adjournment, Friday, March 12, 2004

Committee on Banking and Insurance - 10:00 a.m., Wednesday, March 10, 2004

Committee on Education - 7:57 a.m., Wednesday, March 10, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, March 10, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 10, 2004, was adopted by voice vote.

WEDNESDAY, MARCH 10, 2004

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Sims and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 9, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 204**

Economic Development: **SB 248**

Natural Resources and Environment: **SB 197**

State Government: **SB 96, 139, 219**

House Floor: **HR 234, 235**

Report of Committees

The Committee on Education reported **HB 644, HB 645, HJR 214,** with Committee Substitute attached thereto, **HR 219, SB 80, SB 100,** and **SB 151,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 644, AN ACT relating to residential schools serving students with disabilities operated by the Kentucky Department of Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) Chief information officer of the Commonwealth;[~~ and~~]

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service***; and***

(ac) Persons employed in certified positions at the Kentucky School for the Blind and the Kentucky School for the Deaf.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter

18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 2. KRS 163.032 is amended to read as follows:

(1) The Kentucky Department of Education, with assistance from the Kentucky Personnel Cabinet, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320***, except the salary schedule shall not limit the experience as defined in KRS 157.320 for a certified employee who transfers to the school***.

(2) ***(a)*** Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

(b) If a teacher qualifies for and requests a tribunal under KRS 161.790, the Attorney General shall appoint the members.

(3) The Kentucky Department of Education, with assistance from the Kentucky Personnel Cabinet, shall adopt a salary schedule for administrators at the Kentucky School for the Deaf and the Kentucky School for the Blind which will provide for equitable salaries between teachers and administrators. The salary schedule, which shall be computed prior to July 1 of each year, shall be based on two hundred sixty (260) days per year.

(4) The Department of Education may employ retired teachers in critical shortage areas to work at the Kentucky School for the Blind and the Kentucky School for the Deaf as provided for local school districts under KRS 156.106 and 161.605.

(5) Once a teacher has been selected for hiring at the Kentucky School for the Blind or the Kentucky School for the Deaf, the Department of Education and the Personnel Cabinet shall complete the hiring process within two (2) weeks.

Section 3. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools***, including the Kentucky School for the Blind and the Kentucky School for the Deaf***. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and

Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold*, including the Kentucky School for the Blind and the Kentucky School for the Deaf*. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the

conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

HB 645, AN ACT relating to equity in hiring in the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.500 is amended to read as follows:

(1) [~~The General Assembly directs that~~]Appointments made by the appointing authority to every board, commission, council, or other type of advisory or decision-making body created ***by state statute regarding public elementary and secondary education shall***[~~or reenacted by the Education Reform Act of 1990~~] reflect reasonable minority representation of the membership and[~~ that~~] active minority participation at every level of implementation ***shall*** be continually encouraged.

(2) ***Every board, commission, council, or other type of advisory or decision-making body created by state statute or administrative regulation regarding public elementary and secondary education shall regularly review data on the participation of men, women, persons of different racial backgrounds, and persons of different socioeconomic circumstances in the programs for which that body is responsible. The review shall include the information required by Section 5 of this Act, and shall also include data on student participation in classes and programs within the authority of that body.***

Section 2. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator

under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with ***Section 1 of this Act and*** KRS 160.345(2)*(k)*[~~(j)~~];

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 3. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants ***who meet the qualifications established by the local board and whose names are*** submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons ***who meet the qualifications established by the local board and are*** recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training ***that meets criteria established by the Kentucky Department of Education*** in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. ***Prior to filling a vacancy, the council and the screening and hiring committees shall review the current minority and gender composition of the personnel in the school to determine if there is adequate representation of the various groups.*** Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) ***The school council shall adopt a policy establishing procedures for selection of a principal, including but not limited to meetings, timelines, interviews, review of written applications, review of references, and development of written criteria for selection;***

(j) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references ***and selection criteria***. Procedures shall address situations in which members of the council are not available for consultation; and

(k)[~~(j)~~] Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 4. KRS 160.350 is amended to read as follows:

(1) ***When there is a vacancy in the position of superintendent, the local board of education and the screening committee, as provided in KRS 160.352, shall receive training that meets the criteria established by the Department of Education in recruitment and interviewing techniques prior to carrying out the process of selecting a superintendent.***

(2) When there is a vacancy in the position of superintendent, the local board of education shall establish written criteria to be used by the screening committee, as provided in KRS 160.352, in recommending and the local board of education in selecting an applicant to be hired.

(3) When there is a vacancy in the position of superintendent, and before the notification required under Section 5 of this Act is made, the local board of education shall adopt a plan pursuant to administrative regulations of the Kentucky Board of Education for recruitment of applicants, including minority applicants, for that position. After completing the selection of the superintendent, the local board shall report on the activities conducted to recruit minority applicants.

(4) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(5)[~~(2)~~] Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(6)[~~(3)~~] A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a highly skilled certified educator pursuant to KRS 158.6455 and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request.

(7)[~~(4)~~] After the completion of a superintendent's first contract or after four (4) years, whichever comes last, the board of education may, no later than June 30, extend the contract of the superintendent for one (1) additional year beyond the current term of employment.

Section 5. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) ***"District-level vacancy" means any position vacancy created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a staff member in a local school district or a new position created in a local district, except those for which hiring is governed by the school-based decision-making process established under Section 3 of this Act.***

(b) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(c)[~~(b)~~]"Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs ***in any certified or classified position*** in a local district, the superintendent shall conduct a search to locate minority ***candidates***[~~teachers~~] to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process***,***[~~ and~~] the activities used to increase the percentage of minority ***employees***[~~teachers~~] in the district***, and the district's plan for recruitment for the next school year.***

(e) The superintendent shall establish written criteria, which may be the job descriptions, to be used in selecting applicants to be hired in district-level vacancies.

(f)[~~(e)~~] No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

(g)[~~(f)~~] No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(h)[~~(g)~~] 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or

b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.

(4) (a) Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of

the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.

(b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT.".

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

Section 6. KRS 158.153 is amended to read as follows:

(1) Unless the action is taken pursuant to KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a child based on information contained in a record of an adjudication of delinquency or conviction of an offense received by the school pursuant to KRS 610.345 or from any other source. Nothing in this subsection shall be construed to prohibit a local school board or school official from instituting disciplinary proceedings against any student for violating the discipline policy of the school or school district or taking actions necessary to protect staff and students. Actions to protect staff and students may be taken only after the principal makes a determination that the conduct of the student reflected in the records of the school or obtained by the school from the court indicates a substantial likelihood of an immediate and continuing threat that the student will cause harm to students or staff, and that the restrictions to be ordered represent the least restrictive alternative available and appropriate to remedy the threat, and that the determination and supporting material be documented in the child's record. The action of the principal, in addition to or in lieu of any other procedure available, may be appealed by the child or the child's parent or guardian to the superintendent of the school system or to the Circuit Court in the county in which the school is located, and the appealing party may be represented by counsel.

(2) No school, school administrator, teacher, or other school employee who has custody of records received or maintained by the school pursuant to KRS 610.345 or who has received information contained in or relating to a record received by the school pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any information contained in the record or received from the record to any other person, including but not limited to other teachers, school employees, pupils, or

parents other than the pupil, or parents of the pupil who is the subject of the record.

(3) The child and his parent or guardian shall have a civil cause of action against the school board and against any school administrator violating subsection (1) or (2) of this section or divulging information in violation of KRS 610.345 or 610.340. This civil cause of action shall be in addition to any other criminal or administrative remedy provided by law.

(4) Nothing in this section shall be construed to prohibit a local board of education from establishing districtwide standards of behavior for students who participate in extracurricular and cocurricular activities, including athletics. A school principal may deny or terminate a student's eligibility to participate in extracurricular or cocurricular activities if the student has violated the local district behavior standards or the council's criteria for participation, as described in KRS 160.345(2)*(j)*[~~(i)~~]8. A student's right to participate in extracurricular or cocurricular activities, including athletics, may be suspended, pending investigation of an allegation that the standards of behavior have been violated.

HJR 214, A JOINT RESOLUTION relating to the delegation of the governance and management responsibilities of the Lexington Community College to the Kentucky Community and Technical College System and declaring an emergency.

WHEREAS, for many years the Lexington Community College has provided comprehensive community college programs as an integral part of the University of Kentucky; and

WHEREAS, the Southern Association of Colleges and Schools, the Lexington Community College's accrediting agency, has given it probationary accreditation because it determined that Lexington Community College does not have enough autonomy to be considered a separate community college; and

WHEREAS, the University of Kentucky's board of trustees agreed that the management responsibilities of the Lexington Community College should be delegated to the Kentucky Community and Technical College System where it will be considered an autonomous institution; and

WHEREAS, it is critical that the presence of the Lexington Community College on the University of Kentucky campus be maintained for the benefit of the students and the involvement of the community; and

WHEREAS, many of the strong ties between the Lexington Community College and the University of Kentucky can be maintained through the careful development of agreements and contracts; and

WHEREAS, the transfer of the Lexington Community College to the Kentucky Community and Technical College System requires legislative action as evidenced by this joint resolution;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The University of Kentucky Board of Trustees is directed to delegate the governance and management responsibilities for the University of Kentucky Lexington Community College to the Kentucky Community and Technical College system, on or before July 1, 2004, with the following provisos:

(1) That these responsibilities include, but are not limited to, assets, liabilities, revenues, personnel, programs, financial and accounting services, and support services.

(2) That all funds appropriated by the General Assembly of the Commonwealth of Kentucky to support the Lexington Community College in the 2004-2006 State/Executive Branch Budget Bill, 2004 House Bill 395, shall be transferred and allotted to the Board of Regents of the Kentucky Community and Technical College System for the benefit of the Lexington Community College.

(3) That all personal property, including instructional and other moveable equipment of the Lexington Community College and the University of Kentucky designated for the use of Lexington Community College shall be transferred and allotted to the board of regents for the benefit of the Lexington Community College.

(4) That the Lexington Community College shall continue to use its current facilities until such time as an alternative site or sites have been mutually agreed upon by the board of trustees of the University of Kentucky and the board of regents of the Kentucky Community and Technical College System and approved by the General Assembly.

(5) That restricted gifts, endowments, and sponsored projects designated for the use and benefit of Lexington Community College shall be transferred and allotted to the board of regents for the benefit of the Lexington Community College. These funds shall be managed in a manner that is consistent with any applicable donor or sponsor agreements.

(6) That the Kentucky Community and Technical College System shall reimburse the University of Kentucky at a reasonable cost for any benefits and services, including debt service applicable to Lexington Community College facilities, provided to the system. The Kentucky Community and Technical College System shall reimburse the University for the actual cost of expenditures of the health care plans and the long-term disability plan for Lexington Community College employees and retirees who are enrolled in the plans or who are beneficiaries of the plans as of July 1, 2004, and thereafter.

(7) That the employees in the Lexington Community College as of July 1, 2004, shall be governed by the University of Kentucky regulations and any subsequent changes made by the university, except that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply:

(a) Sick leave and annual vacation leave accruals as of the effective date of the transfer shall be retained by each employee.

(b) Employees with tenure, as of the effective date of the transfer, shall retain their tenure. Employees without tenure, as of the effective date of the transfer, shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure, as of the effective date of the transfer, shall earn tenure based on the policies established by the Board of Regents of the Kentucky Community and Technical College System.

(c) Employees shall maintain a salary not less than their previous salary as of July 1, 2004. The amounts paid to part-time and adjunct faculty per credit hour shall not be less than previously paid.

(d) All employees hired before July 1, 2004, shall be provided the same benefit package available for other University of Kentucky employees as the University of Kentucky may modify, change, consolidate, or eliminate it for all employees.

(e) A person employed as of the effective date of the transfer in the Lexington Community College may elect to become an employee in the Kentucky Community and Technical College System and be subject to the human resources policies and procedures of the Kentucky Community and Technical College System. The employee shall have the right to exercise this option at any future time after the effective date of the transfer. An employee who elects to accept this option and who remains an employee of the Kentucky Community and Technical College System may not reverse this option.

(f) A regular full-time employee may, with prior administrative approval, take up to six (6) credit hours per semester or combination of summer sessions on the University of Kentucky's campus or at a community college during the employee's normal working hours. The University of Kentucky shall defray the registration fee up to a maximum of six (6) credit hours per semester or combination of summer sessions.

(g) New employees hired on or after July 1, 2004, in the Kentucky Community and Technical College System for the Lexington Community College shall be governed by the regulations established by the board of regents.

(h) The actual costs of all workers' compensation claims of employees who, on or after the effective date of the transfer, remain in the university's employee benefits plan shall be paid by the Kentucky Community and Technical College System. The costs of workers' compensation claims incurred prior to July 1, 2004, by Lexington Community College employees shall be paid by the Kentucky Community and Technical College System.

(i) The Kentucky Community and Technical College System shall pay the cost of all unemployment claims made on or after July 1, 2004, by persons who were Lexington Community College employees as of the effective date of this Act.

(j) The costs of employee benefits for Lexington Community College employees who retire on or before June 30, 2004, are the responsibility of the Kentucky Community and Technical College System.

(8) That students enrolled in the Lexington Community College through June 30, 2006, shall have all of the responsibilities, services, privileges, and rights accorded to them as University of Kentucky students. The privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award, and the University of Kentucky scholarship programs. These students shall pay the mandatory University of Kentucky student fees through June 30, 2006. On July 1, 2006 and thereafter, Lexington Community College students may elect to participate in student services and activities provided by the University of Kentucky and shall pay the appropriate fees for these services and activities to include the following fees: athletics, student government association, WRFL student radio, student activities, student center, student health plan, technology fee, Seaton Center fee, and student affairs. Lexington Community College students shall continue to be provided access to University of Kentucky residence halls.

(9) That students enrolled at Lexington Community College on or before September 1, 2004, shall have six (6) years to complete the degree program in which they are enrolled and receive a diploma conveyed by the University of Kentucky Board of Trustees.

(10) That the university administration is authorized to execute an agreement between the University of Kentucky Board of Trustees and the Kentucky Community and Technical College System Board of Regents relating to the Trust Indenture Covenants of the UK Consolidated Educational Buildings Revenue Bonds.

(11) That the university administration is authorized to negotiate and enter into an agreement with the Kentucky Community and Technical College System and Lexington Community College in connection with services which the university will continue to provide to the Lexington Community College and other administrative and legal issues related to the delegation of managerial responsibility, and that the agreement is to be reported to the board of trustees.

Section 2. The chief executive officer of the University of Kentucky, the Lexington Community College, and the Kentucky Community and Technical College System shall appoint a transition team, with an equal number of members representing each of these three (3) organizations, to oversee the implementation of the provisions of this resolution. The transition team shall report to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, and their subcommittees upon request.

Section 3. The president of the University of Kentucky is directed to notify the Southern Association of Colleges and Schools of this resolution.

Section 4. Whereas it is necessary that the governance and management responsibilities for the Lexington Community College be delegated to the Kentucky Community and Technical College System at the beginning of the fiscal year, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HJR 214** is as follows:

HJR 214, A JOINT RESOLUTION relating to the delegation of the governance and management responsibilities of the Lexington Community College to the Kentucky Community and Technical College System and declaring an emergency.

WHEREAS, for many years the Lexington Community College has provided comprehensive community college programs as an integral part of the University of Kentucky; and

WHEREAS, the Southern Association of Colleges and Schools, the Lexington Community College's accrediting agency, has given it probationary accreditation because it determined that Lexington Community College does not have enough autonomy to be considered a separate community college; and

WHEREAS, the University of Kentucky's board of trustees agreed that the management responsibilities of the Lexington Community College should be delegated to the Kentucky Community and Technical College System where it will be considered an autonomous institution; and

WHEREAS, it is critical that the presence of the Lexington Community College on the University of Kentucky campus be maintained for the benefit of the students and the involvement of the community; and

WHEREAS, many of the strong ties between the Lexington Community College and the University of Kentucky can be maintained through the careful development of agreements and contracts; and

WHEREAS, the transfer of the Lexington Community College to the Kentucky Community and Technical College System requires legislative action as evidenced by this joint resolution;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The University of Kentucky Board of Trustees is directed to delegate the governance and management responsibilities for the University of Kentucky Lexington Community College to the Kentucky Community and Technical College system, on or before July 1, 2004, with the following provisos:

(1) That these responsibilities include, but are not limited to, assets, liabilities, revenues, personnel, programs, financial and accounting services, support services, workers compensation claims, unemployment claims, and retirement benefits.

(2) That all funds appropriated by the General Assembly of the Commonwealth of Kentucky to support the Lexington Community College in the 2004-2006 State/Executive Branch Budget Bill, 2004 House Bill 395, shall be transferred and allotted to the Board of Regents of the Kentucky Community and Technical College System for the benefit of the Lexington Community College.

(3) That all personal property, including instructional and other moveable equipment of the Lexington Community College and the University of Kentucky designated for the use of Lexington Community College shall be transferred and allotted to the board of regents for the benefit of the Lexington Community College.

(4) That the Lexington Community College shall continue to use its current facilities including buildings, grounds, and parking areas.

(5) That restricted gifts, endowments, and sponsored projects designated for the use and benefit of Lexington Community College shall be transferred and allotted to the board of regents for the benefit of the Lexington Community College. These funds shall be managed in a manner that is consistent with any applicable donor or sponsor agreements.

(6) That the Kentucky Community and Technical College System shall reimburse the University of Kentucky at a reasonable cost for any benefits and services, including debt service applicable to Lexington Community College facilities, provided to the system. The Kentucky Community and Technical College System shall reimburse the University for the actual cost of expenditures of the health care plans and the long-term disability plan for Lexington Community College employees and retirees who are enrolled in the plans or who are beneficiaries of the plans as of July 1, 2004, and thereafter.

(7) That the employees in the Lexington Community College as of July 1, 2004, shall be governed by the University of Kentucky regulations and any subsequent changes made by the university, except that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply:

    (a) Sick leave and annual vacation leave accruals as of the effective date of the transfer shall be retained by each employee.

    (b) Employees with tenure, as of the effective date of the transfer, shall retain their tenure. Employees without tenure, as of the effective date of the transfer, shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure, as of the effective date of the transfer, shall earn tenure based on the policies established by the Board of Regents of the Kentucky Community and Technical College System.

(c) Employees shall maintain a salary not less than their previous salary as of July 1, 2004. The amounts paid to part-time and adjunct faculty per credit hour shall not be less than previously paid.

(d) All employees hired before July 1, 2004, shall be provided the same benefit package available for other University of Kentucky employees as the University of Kentucky may modify, change, consolidate, or eliminate it for all employees.

(e) A person employed as of the effective date of the transfer in the Lexington Community College may elect to become an employee in the Kentucky Community and Technical College System and be subject to the human resources policies and procedures of the Kentucky Community and Technical College System. The employee shall have the right to exercise this option at any future time after the effective date of the transfer. An employee who elects to accept this option and who remains an employee of the Kentucky Community and Technical College System may not reverse this option.

(f) A regular full-time employee may, with prior administrative approval, take up to six (6) credit hours per semester or combination of summer sessions on the University of Kentucky's campus or at a community college during the employee's normal working hours. The University of Kentucky shall defray the registration fee up to a maximum of six (6) credit hours per semester or combination of summer sessions.

(g) New employees hired on or after July 1, 2004, in the Kentucky Community and Technical College System for the Lexington Community College shall be governed by the regulations established by the board of regents.

(8) That students enrolled in the Lexington Community College through June 30, 2006, shall have all of the responsibilities, services, privileges, and rights accorded to them as University of Kentucky students. The privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award, and the University of Kentucky scholarship programs. These students shall pay the mandatory University of Kentucky student fees through June 30, 2006. On July 1, 2006, and thereafter, Lexington Community College students may elect to participate in student services and activities provided by the University of Kentucky and shall pay the appropriate fees for these services and activities to include the following fees: athletics, student government association, WRFL student radio, student activities, student center, student health plan, technology fee, Seaton Center fee, and student affairs. Lexington Community College students shall continue to be provided access to University of Kentucky residence halls.

(9) That students enrolled at Lexington Community College on or before September 1, 2004, shall have six (6) years to complete the degree program in which they are enrolled and receive a diploma conveyed by the University of Kentucky Board of Trustees.

(10) That the university administration is authorized to execute an agreement between the University of Kentucky Board of Trustees and the Kentucky Community and Technical College System Board of Regents relating to the Trust Indenture Covenants of the UK Consolidated Educational Buildings Revenue Bonds.

(11) That the university administration is authorized to negotiate and enter into an agreement with the Kentucky Community and Technical College System and Lexington Community College in connection with services which the university will continue to provide to the Lexington Community College and other administrative and legal issues related to the delegation of managerial responsibility, and that the agreement is to be reported to the board of trustees, the board of regents, and the Lexington Community College Advisory Board.

(12) That the Lexington Community College Advisory Board shall continue to serve in an advisory capacity.

(13) That the university administration and the Lexington Community College administration continue to develop a transfer plan to expand the legacy of students transferring from the community college to the university.

Section 2. The chief executive officer of the University of Kentucky, the Lexington Community College, and the Kentucky Community and Technical College System shall appoint a transition team, with an equal number of members representing each of these three (3) organizations, to oversee the implementation of the provisions of this resolution. The transition team shall report to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, and their subcommittees upon request.

Section 3. The president of the University of Kentucky and the president of the Lexington Community College are directed to notify the Southern Association of Colleges and Schools of this resolution.

Section 4. Whereas it is necessary that the governance and management responsibilities for the Lexington Community College be delegated to the Kentucky Community and Technical College System at the beginning of the fiscal year, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HR 219, A RESOLUTION urging that an agreement should be reached between Murray State University and Kentucky's Tourism Development Cabinet for the transfer of Wickliffe Mounds Research Center.

WHEREAS, from 1100 AD to 1350 AD, a culture known as the Mississippians resided at what is now Wickliffe, high on a bluff overlooking the confluence of the Mississippi and Ohio rivers, building structures which became known as the Wickliffe Mounds; and

WHEREAS, the Mississippian culture is considered by archaeologists to be a most complex and sophisticated culture, providing a heritage that is directly ancestral to historic tribes including the Chickasaw, the Chocktaw, the Cherokee, the Cree, and the Quapaw; and

WHEREAS, the Wickliffe Mounds, under private ownership for many years, were donated in 1983 to Murray State University, establishing the Wickliffe Mounds Research Center; and

WHEREAS, Wickliffe Mounds Research Center, as a facility of Murray State University managed in accordance with the educational and service mission of our state universities, conducts scientific research and facilitates historic preservation while also promoting cultural tourism for visitors from the United States and foreign countries; and

WHEREAS, the United States government, in 1984, recognized the public significance of Wickliffe Mounds Research Center by placing it on the National Register of Historic Places, notifying all Americans of its cultural significance in our history; and

WHEREAS, the Wickliffe Mounds Research Center provided tours and educational programs for more than 161,000 paying customers from 1983 to 2003, with tens of thousands of additional tourists who visited the welcome center; and

WHEREAS, the Commonwealth recognized the site's archaeological significance in 1987, designating the Wickliffe Mounds as Kentucky's first Archaeological Landmark; and

WHEREAS, the Wickliffe Mounds Research Center provided, since 1984, elementary and secondary educational programs and tours for almost 40,000 school students, with the majority from Kentucky schools; and

WHEREAS, Murray State University has acknowledged that increased public outreach and cultural tourism promotion could be provided for Wickliffe Mounds Research Center more cost-effectively by other entities in Kentucky's state government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges that an agreement should be reached between Murray State University and Kentucky's Tourism Development Cabinet for the transfer of Wickliffe Mounds Research Center, located at 94 Green Street, in Wickliffe, Ballard County, to Kentucky's Tourism Development Cabinet.

SB 80, AN ACT relating to excused absences from school.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.035 is amended to read as follows:

(1) Notwithstanding the provisions of any other statute, any student in a public school who is enrolled in a properly organized 4-H club shall be considered present at school for all purposes when participating in regularly scheduled 4-H club educational activities, provided, the student is accompanied by or under the supervision of a county extension agent or the designated 4-H club leader for the 4-H club educational activity participated in.

(2) A public school principal shall give a student an excused absence of up to ten (10) school days to pursue an educational enhancement opportunity determined by the principal to be of significant educational value, including but not limited to participation in an educational foreign exchange program or an intensive instructional, experiential, or performance program in one (1) of the core curriculum subjects of English, science, mathematics, social studies, foreign language, and the arts.

(a) A student receiving an excused absence under this subsection shall have the opportunity to make up school work missed and shall not have his or her class grades adversely affected for lack of class attendance or class participation due to the excused absence.

(b) Educational enhancement opportunities under this subsection shall not include nonacademic extracurricular activities, but may include programs not sponsored by the school district.

(c) If a request for an excused absence to pursue an educational enhancement opportunity is denied by a school principal, a student may appeal the decision to the district superintendent, who shall make a determination whether to uphold or alter the decision of the principal. If a superintendent upholds a principal's denial, a student may appeal the decision to the local board of education, which shall make a final determination. A principal, superintendent, and local board of education shall make their determinations based on the provisions of this subsection and the district's school attendance policies adopted in accordance with KRS 158.070 and KRS 159.150.

(d) A student receiving an excused absence under the provisions of this subsection shall be considered present in school during the excused absence for the purposes of calculating average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky program.

SB 100, AN ACT relating to reading, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act shall be cited as the "Read to Achieve Act of 2004."

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that reading proficiency is the gateway skill necessary for all of Kentucky students to achieve the academic goals established in KRS 158.6451. It is Kentucky's goal that all children learn to read well before exiting the primary program.

(2) It is the intent of the General Assembly that every elementary school:

(a) Provide a comprehensive schoolwide reading program;

(b) Provide diagnostic reading assessments and intervention services for those students who need them to learn to read at the proficient level; and

(c) Ensure quality instruction by highly trained teachers.

Section 3. KRS 158.792 is amended to read as follows:

(1) As used in this section and KRS 164.0207, unless the context requires otherwise:

(a) *"Comprehensive reading program" means a program that emphasizes the essential components of reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read*[~~"Reading" means the process of comprehending the meaning of written text by depending on:~~

~~1. The ability to use phonics skills, that is, knowledge of letters and sounds, to decode printed words quickly and effortlessly, both silently and aloud;~~

~~2. The ability to use previously learned strategies for reading comprehension; and~~

~~3. The ability to think critically about the meaning, message, and aesthetic value of the text~~].

(b) *"Reading diagnostic assessment" means an assessment that identifies a struggling reader and measures the reader's skills against established performance levels in the essential components of reading. The purpose is to screen for areas that require intervention in order for the student to learn to read proficiently.*

(c) "Reading intervention program" means short-term intensive instruction in the essential skills necessary to read proficiently that is provided to a student by a highly trained teacher. This instruction may be conducted one-on-one or in small groups, shall be research-based, reliable, and replicable, and shall be based on the ongoing assessment of individual student needs.

(d) "Reliable, replicable research" means objective, valid, scientific studies that:

1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;
2. Rely on measurements that meet established standards of reliability and validity;
3. Test competing theories, where multiple theories exist;
4. Are subjected to peer review before their results are published; and
5. Discover effective strategies for improving reading skills.

(2) The *reading diagnostic and intervention*[~~ early reading incentive~~] fund is created to *help teachers* improve the reading skills of *struggling readers*[~~students~~] in the primary program. The Department of Education, upon the recommendation of the *Reading Diagnostic and Intervention*[~~Early Reading Incentive~~] Grant Steering Committee, shall provide *renewable, two (2)-year* grants to schools to support teachers in the implementation of reliable, replicable research-based reading *intervention programs*[~~models~~] that use a balance of *diagnostic tools, and* instructional strategies *that emphasize phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read*[~~, including phonics instruction,~~] to address the diverse learning needs of those students reading at low levels. Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.

(3) *(a) The Kentucky Board of Education shall promulgate administrative regulations, based on recommendations from the secretary of the Education Cabinet, the Reading Diagnostic and Intervention Grant Steering Committee established in Section 4 of this Act, and the Collaborative Center for Literacy Development established in Section 5 of this Act to:*

1. Identify eligible grant applicants, taking into consideration how the grant program described in this section will relate to other grant programs;

2. Specify the criteria for acceptable diagnostic assessments and intervention programs;

3. Specify the criteria for acceptable ongoing assessment of each child to determine his or her reading progress;

4. Establish the minimum evaluation process for an annual review of each grant recipient's program and progress;

5. Identify the annual data that must be provided from grant recipients;

6. Define the application review and approval process;

7. Establish matching requirements deemed necessary;

8. Define the professional development and continuing education requirements for teachers, administrators, and staff of grant recipients;

9. Establish the conditions for renewal of a two (2) year grant; and

10. Specify other conditions necessary to implement the purposes of this section.

(b) The board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:

1. A research-based comprehensive schoolwide reading program will be available;

2. Intervention services will supplement, not replace, regular classroom instruction;

3. Intervention services will be provided to struggling primary program readers within the school based upon ongoing assessment of their needs; and

4. A system for informing parents of struggling readers of the available family literacy services within the district will be established[~~Upon recommendation of the Early Reading Incentive Grant Steering Committee, the state board shall establish by promulgation of an administrative regulation in accordance with provisions of KRS Chapter 13A an application process and the criteria for funding grants. The application shall include, but not be limited to, the following:~~

~~(a) Identification of the research-based model to be implemented;~~

~~(b) The method for identifying qualified students to be served;~~

~~(c) An implementation plan and timeline, including supporting professional development efforts;~~

~~(d) A plan for evaluation to assess the short-term and long-term success of the program;~~

~~(e) A budget; and~~

~~(f) Approval of the application by the school council if one exists, the principal, and the superintendent of schools~~].

(4) In order to qualify for funding, the school council, or if none exists, the ***principal or the*** superintendent of schools, shall allocate matching funds ***required by grant recipients under subsection (3) of this section***. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used as part of the school's match.

(5) The Department of Education shall make available to schools:

(a) Information concerning successful, research-based ***comprehensive***[~~early~~] reading ***programs, diagnostic tools for pre- and post-assessment, and intervention programs***[~~ models including phonics instruction~~], from the Collaborative Center for Literacy Development created under KRS 164.0207;

(b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and

(c) A list of professional development providers offering teacher training related to ***reading that emphasizes the essential components for successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read***[~~phonics instruction~~].

(6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds[~~ and a summary of the program's evaluation conducted by the Collaborative Center for Literacy Development under KRS 164.0207~~]. ***The report shall also include comparisons of the overall costs and effectiveness of approved intervention programs. The annual report for an odd-numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention grant program.***

Section 4. KRS 158.794 is amended to read as follows:

(1) The ***Reading Diagnostic and Intervention***[~~Early Reading Incentive~~] Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the[~~ early~~] reading ***diagnostic and intervention***[~~incentive grant~~] fund created ***in Section 3 of this Act***[~~by KRS 158.792~~]. The committee shall be composed of ***sixteen (16)***[~~fifteen (15)~~] members including the commissioner of education or the commissioner's designee, the ***executive director of the Collaborative Center for Literacy Development, the*** president of the Council on Postsecondary Education or the president's designee,[~~ the commissioner of the Department for Adult Education and Literacy or the commissioner's designee,~~] and the following members, to be appointed by the Governor:

(a) ***Five (5)***[~~Two (2)~~] primary program teachers with a specialty or background in reading and literacy;

(b) ***Four (4)***[~~Eight (8)~~] university professors with a specialty or background in reading and literacy representing[~~ each of the~~] public universities;[~~ and~~]

(c) ***One (1) elementary school principal; and***

(d) ***Three (3)***[~~Two (2)~~] individuals from the state at large with ***an***[~~ background and~~] interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed [~~and qualified, ~~]except that upon initial appointment, ***five (5)***[~~four (4)~~] members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs***, trends, and issues*** in schools throughout the state regarding reading and literacy programs;

(b) ***Make recommendations regarding the content of administrative regulations to be promulgated by the Kentucky Board of Education under Section 3 of this Act;***[~~Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;~~

~~(c) Develop a process for monitoring grants that are awarded; and~~]

(c)[~~(d)~~]Recommend approval of grant applications based upon ***the provisions of Section 3 of this Act and administrative regulations promulgated by the Kentucky Board of Education as required under Section 3 of this Act; and***

(d) Advise the Kentucky Board of Education and the Department of Education regarding costs and effectiveness of various reading intervention programs[~~criteria established by the committee~~].

Section 5. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available ***professional development***[~~training~~] for educators in reliable, replicable research-based reading ***programs***[~~models~~], and to promote literacy development***, including family literacy***. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about ***programs***[~~models~~] addressing reading and literacy from ***early childhood and*** the elementary grades ***(P-5)*** through adult education;

(b) ***Providing advice to the Kentucky Board of Education regarding the Reading Diagnostic and Intervention Grant Program established in Section 2 of this Act and in other matters relating to reading.***

(c) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development ***relating to reading diagnostic assessments and intervention and to the essential components of successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and the connections between writing and reading acquisition and motivation to read***[~~in early reading instruction, including phonics instruction~~];

(d)[~~(c)~~]Assisting districts ***with students functioning at***[~~located in areas with~~] low levels of reading skills to assess and address identified literacy needs;

(e)[~~(d)~~]Providing professional development and coaching for ***early childhood educators and*** classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading ***programs. The professional development shall utilize technology when appropriate***[~~models~~];

(f)[~~(e)~~] Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(g)[~~(f)~~] ***Maintaining***[~~Establishing~~] a demonstration and training site for early literacy located at each of the public universities; and

(h)[~~(g)~~] Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.

(2) ***The center shall review national research and disseminate appropriate research abstracts, when appropriate, as well as conduct ongoing research of reading programs throughout the state. Research activities undertaken by the center shall consist of descriptive as well as empirical studies.***

(a) The center may contract for research studies to be conducted on its behalf.

(b) The research agenda should, at a minimum, consider the impact of various reading and intervention programs:

1. In eliminating academic achievement gaps among students with differing characteristics, including subpopulations of students with disabilities, students with low socioeconomic status, students from racial minority groups, students with limited English proficiency, and students of different gender;

2. In schools with differing characteristics, such as urban versus rural schools, poverty versus nonpoverty schools, and schools in different geographic regions of the state;

3. In terms of their costs and effectiveness; and

4. In maintaining positive student progress over a sustained period of time.

(3) The center shall submit an annual report *of*[~~on~~] its activities to the *Kentucky Department of Education, the* Governor*,* and the Legislative Research Commission no later than September 1 of each year.

(4)[~~(3)~~] With[~~the~~] advice *from*[~~of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and~~] the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location*. The center, in conjunction with the council, shall establish goals and performance objectives related to the functions described in this section*[~~and monitor the progress of the center~~].

Section 6. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) [~~Beginning in fiscal year 1999-2000, and~~]Each fiscal year[~~thereafter~~], three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000)[~~in fiscal year 1999-2000 and each fiscal year thereafter~~]; and

(b) To the *reading diagnostic and intervention*[~~early reading incentive~~] fund, one million eight hundred thousand dollars ($1,800,000)[~~in fiscal year 1999-2000 and each fiscal year thereafter~~].

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1.[~~Seven million dollars ($7,000,000) in fiscal year 1999-2000;~~

~~2. Fifteen percent (15%) in fiscal year 2000-2001;~~

~~3. Twenty-five percent (25%) in fiscal year 2001-2002;~~

~~4. Thirty-two percent (32%) in fiscal year 2002-2003;~~

~~5.~~] Forty percent (40%) in fiscal year 2003-2004; and

2[~~6~~]. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1.[~~Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;~~

~~2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;~~

~~3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;~~

~~4.~~] Forty percent (40%) in fiscal year 2003-2004;

2~~[5]~~. Forty-five percent (45%) in fiscal year 2004-2005; and

3~~[6]~~. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 7. Whereas it is critical that the Department of Education, the Kentucky Board of Education, the Collaborative Center for Literacy Development, and the Reading Diagnostic and Intervention Early Grant Steering Committee arrive at decisions regarding revisions to administrative regulations and the distribution of grant applications to local school districts, and that technical assistance be provided to school districts in a timely manner before the start of the 2005-2006 school year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 151, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education~~[, Arts, and Humanities]~~ Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of forty-eight (48) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet; secretary of the Cabinet for Families and Children; secretary of the Cabinet for Health Services; [~~secretary of the Cabinet for Workforce Development; ~~]secretary of the Education[~~, Arts, and Humanities~~] Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;
2. Nine (9) at-large members; and
3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.

6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
2. Education[~~, Arts, and Humanities~~] Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
    (b) Department for Libraries and Archives.
    (c) ***Council on Postsecondary Education***[~~Kentucky Arts Council~~].
    (d) Kentucky Educational Television.
    (e) ***Education Professional Standards Board***[~~Kentucky Historical Society~~].
    (f) ***Department for Technical Education.***
    (g) Department of Vocational Rehabilitation.
    (h) Department for the Blind.
    (i) Department for Employment Services.
    (j) Kentucky Technical Education Personnel Board.
    (k) Department for Training and Reemployment.
    (l) Office of General Counsel.
    (m) Office of Communication Services.
    (n) Office of Workforce Partnerships.
    (o) Office of Workforce Analysis and Research.
    (p) Office of Budget and Administrative Services.
    (q) Office of Technology Services.
    (r) Office of Quality and Human Resources.
    (s) Unemployment Insurance Commission.
        [~~Kentucky Teachers' Retirement System Board of Trustees.~~
    ~~(g) Kentucky Center for the Arts.~~
    ~~(h) Kentucky Craft Marketing Program.~~]
    (t)[~~(i)~~] Kentucky Commission on the Deaf and Hard of Hearing.
    (u)[~~(j)~~] Governor's Scholars Program.
    [~~(k) Governor's School for the Arts.~~]
    (v)[~~(l)~~] Operations and Development Office.
    (w)[~~(m)~~] ***Office of Legislative and Intergovernmental Affairs***[~~Kentucky Heritage Council~~].
    (x)[~~(n)~~] ***Office of Legal Services***[~~Kentucky African-American Heritage Commission~~].
    (y)[~~(o)~~]***Office of Communication.***
    (z) Board of Directors for the Center for School Safety.

- *(aa) Kentucky Environmental Education Council.*
- *(bb) Martin Luther King Commission.*

3. Natural Resources and Environmental Protection Cabinet:
    - (a) Environmental Quality Commission.
    - (b) Kentucky Nature Preserves Commission.
    - (c) Department for Environmental Protection.
    - (d) Department for Natural Resources.
    - (e) Department for Surface Mining Reclamation and Enforcement.
    - (f) Office of Legal Services.
    - (g) Office of Information Services.
    - (h) Office of Inspector General.
4. Transportation Cabinet:
    - (a) Department of Highways.
        1. Office of Program Planning and Management.
        2. Office of Project Development.
        3. Office of Construction and Operations.
        4. Office of Intermodal Programs.
        5. Highway District Offices One through Twelve.
    - (b) Department of Vehicle Regulation.
    - (c) Department of Administrative Services.
    - (d) Department of Fiscal Management.
    - (e) Department of Rural and Municipal Aid.
    - (f) Department of Human Resources Management.
    - (g) Office of the Secretary.
    - (h) Office of General Counsel and Legislative Affairs.
    - (i) Office of Public Affairs.
    - (j) Office of Transportation Delivery.
    - (k) Office of Minority Affairs.
    - (l) Office of Policy and Budget.
    - (m) Office of Technology.
    - (n) Office of Quality.
    - (o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
    - (a) Department of Administration and Support.
    - (b) Department for Business Development.
    - (c) Department of Financial Incentives.
    - (d) Department of Community Development.
    - (e) Department for Regional Development.
    - (f) Tobacco Research Board.
    - (g) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    - (a) Public Service Commission.
    - (b) Department of Insurance.
    - (c) Department of Housing, Buildings and Construction.
    - (d) Department of Financial Institutions.
    - (e) Department of Mines and Minerals.
    - (f) Department of Public Advocacy.
    - (g) Department of Alcoholic Beverage Control.
    - (h) Kentucky Racing Commission.

    (i) Board of Claims.
    (j) Crime Victims Compensation Board.
    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
    (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
    (n) Department of Charitable Gaming.
    (o) Mine Safety Review Commission.
7. Cabinet for Families and Children:
    (a) Department for Community Based Services.
    (b) Department for Disability Determination Services.
    (c) Public Assistance Appeals Board.
    (d) Office of the Secretary.
        (1) Kentucky Commission on Community Volunteerism and Service.
    (e) Office of the General Counsel.
    (f) Office of Program Support.
    (g) Office of Family Resource and Youth Services Centers.
    (h) Office of Technology Services.
    (i) Office of the Ombudsman.
    (j) Office of Human Resource Management.
8. Cabinet for Health Services.
    (a) Department for Public Health.
    (b) Department for Medicaid Services.
    (c) Department for Mental Health and Mental Retardation Services.
    (d) Kentucky Commission on Children with Special Health Care Needs.
    (e) Office of Certificate of Need.
    (f) Office of the Secretary.
    (g) Office of the General Counsel.
    (h) Office of the Inspector General.
    (i) Office of Aging Services.
9. Finance and Administration Cabinet:
    (a) Office of Financial Management.
    (b) Office of the Controller.
    (c) Department for Administration.
    (d) Department of Facilities Management.
    (e) State Property and Buildings Commission.
    (f) Kentucky Pollution Abatement Authority.
    (g) Kentucky Savings Bond Authority.
    (h) Deferred Compensation Systems.
    (i) Office of Equal Employment Opportunity Contract Compliance.
    (j) Office of Capital Plaza Operations.
    (k) County Officials Compensation Board.
    (l) Kentucky Employees Retirement Systems.
    (m) Commonwealth Credit Union.
    (n) State Investment Commission.
    (o) Kentucky Housing Corporation.
    (p) Governmental Services Center.
    (q) Kentucky Local Correctional Facilities Construction Authority.
    (r) Kentucky Turnpike Authority.

(s) Historic Properties Advisory Commission.
(t) Kentucky Tobacco Settlement Trust Corporation.
(u) Eastern Kentucky Exposition Center Corporation.
(v) State Board for Proprietary Education.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13. [~~Cabinet for Workforce Development:~~
~~(a) Department for Adult Education and Literacy.~~
~~(b) Department for Technical Education.~~
~~(c) Department of Vocational Rehabilitation.~~
~~(d) Department for the Blind.~~
~~(e) Department for Employment Services.~~
~~(f) Kentucky Technical Education Personnel Board.~~
~~(g) The Foundation for Adult Education.~~
~~(h) Department for Training and Reemployment.~~
~~(i) Office of General Counsel.~~
~~(j) Office of Communication Services.~~

~~(k) Office of Workforce Partnerships.~~
~~(l) Office of Workforce Analysis and Research.~~
~~(m) Office of Budget and Administrative Services.~~
~~(n) Office of Technology Services.~~
~~(o) Office of Quality and Human Resources.~~
~~(p) Unemployment Insurance Commission.~~

~~14.~~] Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. [~~Council on Postsecondary Education.~~
~~3.~~] Department for Local Government.
3.[~~4.~~] Kentucky Commission on Human Rights.
4.[~~5.~~] Kentucky Commission on Women.
5.[~~6.~~] Department of Veterans' Affairs.
6.[~~7.~~] Kentucky Commission on Military Affairs.
7.[~~8.~~] The Governor's Office for Technology.
8.[~~9.~~] Commission on Small Business Advocacy.
[~~10. Education Professional Standards Board.~~]

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1)[~~Council on Postsecondary Education;~~
~~(2)~~] Department of Military Affairs;
(2)[~~(3)~~] Department for Local Government;
(3)[~~(4)~~] Kentucky Commission on Human Rights;
(4)[~~(5)~~] Kentucky Commission on Women;
(5)[~~(6)~~] Kentucky Commission on Military Affairs;
(6)[~~(7)~~] Kentucky Coal Council;
(7)[~~(8)~~] Governor's Office of Child Abuse and Domestic Violence Services;
(8)[~~(9)~~] Governor's Office for Technology;
(9)[~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy; ***and***
[~~(13) Office of Early Childhood Development;~~]
(12)[~~(14)~~] Kentucky Agency for Substance Abuse Policy[~~; and~~]
[~~(15) Education Professional Standards Board~~].

Section 5. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education~~[, Arts, and Humanities]~~ Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for Health Services.

(8) Cabinet for Families and Children.

(9) Finance and Administration Cabinet.

(10) Tourism Development Cabinet.

(11) Revenue Cabinet.

(12) Labor Cabinet.

(13) ~~[Cabinet for Workforce Development.~~

~~(14)]~~ Personnel Cabinet.

Section 6. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education~~[, Arts, and Humanities]~~ Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement

School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 7. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the Tourism Cabinet;

(e) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 8. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, ***and the*** Lieutenant Governor, ~~[and the Superintendent of Public Instruction,]~~the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000

Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education~~[, arts, and humanities]~~	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 9. KRS 146.654 is amended to read as follows:

(1) The board of directors of the Kentucky Natural History Museum shall establish the Kentucky Natural History Museum. The board shall implement KRS 146.650 to 146.666 to the extent practical prior to operation of the museum. Working to achieve the public purposes that are the goals of implementation of KRS 146.650 to 146.666 shall not be dependent on the existence and operation of the museum in a physical place.

(2) The board shall be administratively linked to the Education~~[, Arts, and Humanities]~~ Cabinet.

(3) To accomplish the purposes of KRS 146.650 to 146.666, the board is authorized to:

  (a) Acquire and hold property by deed, gift, devise, bequest, lease, exchange, purchase, or transfer;

  (b) Plan for, develop, construct, and maintain buildings;

  (c) Enter into agreements with state, federal, or local agencies;

  (d) Employ and contract with individuals, corporations, or other business entities to accomplish the purposes of KRS 146.650 to 146.666;

  (e) Accept and administer appropriations, gifts, grants, devises, and bequests of money, securities, or other items of value; and

  (f) Carry out any other functions necessary to accomplish the purposes of KRS 146.650 to 146.666.

(4) To accomplish the purposes of KRS 146.650 to 146.666, the board may provide and administer grants to public and

private entities.

Section 10. KRS 148.562 is amended to read as follows:

(1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:

- (a) Secretary of the Tourism Development Cabinet, or his or her designee;
- (b) Secretary of the Transportation Cabinet, or his or her designee;
- (c) Secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, or his or her designee;
- (d) Secretary of the Finance and Administration Cabinet, or his or her designee;
- (e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and
- (f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.

(2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

- (a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;
- (b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;
- (c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and
- (d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.

(3) The Governor shall appoint a chair from among the members of the board.

(4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

(5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 11. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

- (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.
- (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support

and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 12. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years, except that of the members appointed after July 15, 1998, four (4) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; four (4) members appointed to fill the terms expiring July 1, 2000, shall serve until February 1, 2001; four (4) members appointed to fill the terms expiring July 1, 2001, shall serve until February 1, 2002; and members appointed to fill the terms expiring July 1, 2002, shall serve until February 1, 2003; and subsequent appointments shall be for four (4) year terms ending on February 1.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet as an independent administrative body.

(8) The council shall be headed by an executive director appointed by the secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet upon recommendation of the council.

Section 13. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet;

(5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;

(6) Advise the Governor on matters pertaining to the arts;

(7) Adopt and promulgate regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9) Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the secretary of the ***Commerce***[~~Education, Arts, and Humanities~~]Cabinet and with the state purchasing provisions of KRS Chapters 45 and 45A;

(10) Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(11) Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

Section 14. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of fifteen (15) members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four (4) year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the

Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of eight (8) members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between regular meetings, and the designation of alternates for members with full voting authority.

(5) The corporation shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

Section 15. KRS 153.620 is amended to read as follows:

(1) April 24 of each year is declared to be "Kentucky Writers' Day."

(2) The Education[~~, Arts, and Humanities~~] Cabinet may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

Section 16. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;

(e) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2. Families and Children;
3. Justice;
4. Natural Resources and Environmental Protection;
5. Transportation;
6.[~~Workforce Development;~~
~~7.~~] Education[~~, Arts, and Humanities~~];
7.[~~8.~~] Health Services;

8.[~~9.~~] Revenue; and

9.[~~10.~~] Labor;

(f) The Attorney General, or his designee;

(g) The commissioner of the Department of Veterans' Affairs or a designee;

(h) The executive director of the Kentucky Commission on Military Affairs or a designee;

(i) Kentucky's Civilian Aide to the Secretary of the United States Army;

(j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;

(k) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;
6. The One Hundredth Training Division;
7. Technology Park of Greater Louisville; and
8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and

(l) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.

(b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 17. KRS 157.910 is amended to read as follows:

(1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be

attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.

(3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.

(4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

(5) The council membership shall elect a chairperson to serve a one (1) year term.

Section 18. KRS 157.921 is amended to read as follows:

(1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:

(a) Three (3) representatives from postsecondary institutions;

(b) One (1) representative from the Council for Social Sciences;

(c) Six (6) representatives from elementary and secondary schools;

(d) One (1) representative of the Department of Education; and

(e) One (1) representative of the Council on Postsecondary Education.

(3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

(4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

Section 19. KRS 158.442 is amended to read as follows:

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education~~[, Arts, and Humanities]~~ Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

Section 20. KRS 158.443 is amended to read as follows:

(1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.

(2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.

(3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the office of the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.

(5) Using a request-for-proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract. The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:

(a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and

(b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.

(6) The board of directors shall annually approve:

(a) A work plan for the center;

(b) A budget for the center;

(c) Operating policies as needed; and

(d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.

(7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.

(8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

Section 21. KRS 158.796 is amended to read as follows:

The Governor's Scholars Program is established in the Office of the Secretary of the Education~~[, Arts, and Humanities]~~ Cabinet and shall be headed by an executive director appointed by the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet with approval by the Governor. This program shall be responsible for implementing an enrichment program for academically-gifted students.

Section 22. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and

5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for Health Services appointed by the secretary;

(c) One (1) representative of the Cabinet for Families and Children appointed by the secretary;

(d) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet or his designee;

(e) The president of the Kentucky Association for the Deaf or his designee;

(f) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(g) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(f) of this section, appointed as follows:

1. One (1) parent of a hard of hearing or deaf child;

2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(g) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 23. KRS 171.312 is amended to read as follows:

In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: Research and Publications; Oral History and Educational Outreach; Administration; and Museums. The divisions shall be headed by a director appointed by the Executive Committee of the Kentucky Historical Society of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet pursuant to KRS 171.311.

Section 24. KRS 171.3801 is amended to read as follows:

(1) There is established the Kentucky Heritage Council (hereinafter referred to as "the council") which shall perform the functions specified in KRS 171.381.

(2) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the preservation and protection of Kentucky's heritage. On or before September 15, 1982, the Governor shall appoint not more than four (4) members for a term of one (1) year, not more than four (4) members for a term of two (2) years, not more than four (4) members for a term of three (3) years, and not more than four (4) members for a term of four (4) years. Thereafter, the Governor shall make all appointments for a term of four (4) years.

(3) Council members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(5) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(6) The council shall be attached to the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes.

(7) The Heritage Council shall include a heritage division, whose duties shall include providing staff services needed by the Heritage Council in order to perform its duties under KRS 171.381, including but not limited to preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and social aspects of Kentucky's history.

(8) The heritage division shall be headed by a director appointed by the Governor from a list of three (3) nominees submitted

by the Heritage Council; and the Heritage Council and the heritage division shall not be subject to reorganization.

Section 25. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

- (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;
- (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;
- (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and
- (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

- (a) Accept grants or other funds or property from any available source, public or private;
- (b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;
- (c) Enter into such contractual relationships as may be necessary;
- (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;
- (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and
- (f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

- (a) Development for the State Historic Preservation Program;
- (b) Direction of a comprehensive statewide survey of historic properties;
- (c) Nomination of historic properties to the National Register of Historic Places;
- (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
- (e) Cooperation in the integration of historic preservation planning with all levels of planning;
- (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
- (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;
- (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
- (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
- (j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 26. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education~~[, Arts, and Humanities]~~ Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management or his designee, the chief information officer or her or his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 27. KRS 171.800 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission is hereby established to perform the functions specified in KRS 171.805.

(2) The membership of the commission shall consist of three (3) ex officio members and seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

  (a) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, or the secretary's designee to serve ex officio;

  (b) The president of Kentucky State University, or the president's designee to serve ex officio;

  (c) The director of the Kentucky Heritage Council, or the director's designee to serve ex officio;

  (d) Four (4) members from institutions of higher education;

  (e) One (1) member from the preservation community;

  (f) One (1) member from the arts community; and

  (g) Eleven (11) members from the public-at-large.

(3) Appointed members shall be appointed by the Governor and shall serve for terms of four (4) years. Any vacancies shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chairman and a vice chairman of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at the call of the chairman, but not less often than three times during each calendar year. A majority of the members appointed to the commission shall constitute a quorum.

(7) The commission shall be attached to the Kentucky Heritage Council for administrative purposes.

(8) The commission may accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities. Committees may be formed at the discretion of the chairman.

(9) The African-American Heritage Program is established as a branch within the Kentucky Heritage Division, whose responsibilities shall include providing staff services needed to perform its duties under KRS 171.805.

Section 28. KRS 171.805 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.

(2) The duties and functions of the commission shall be to:

(a) Advise the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet and agencies within the cabinet on matters relating to African-American heritage.

(b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.

(c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.

(d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.

(e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.

(f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with KRS 171.812.

Section 29. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations and, contingent on review by the council, present to the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

Section 30. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

  (a) Secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, or designee;

  (b) Secretary of the Tourism Development Cabinet, or designee;

  (c) Secretary of the Transportation Cabinet, or designee;

  (d) Director of the Kentucky Historical Society, or designee;

  (e) State historic preservation officer of the Kentucky Heritage Council, or designee;

  (f) Chair of the commission or designee;

  (g) Director of the Underground Railroad Institute at Georgetown College, or designee;

  (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

  (i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;

  (j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and

  (k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

  (a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

  (b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 31. KRS 171.816 is amended to read as follows:

The ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with KRS 171.805 and 171.810 to 171.814. The secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with KRS 171.812(5), and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 32. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;

(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;

(3) Advise the Transportation Cabinet on the scenic byways and highways program;

(4) Review and make recommendations on requests for highway signage from tourism-related entities;

(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;

(6) Monitor developments across the United States relating to billboards and official signs;

(7) Report to the secretary of the Transportation Cabinet and to the secretary of the Tourism Development Cabinet on issues of mutual interest to the cabinets;

(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Tourism Development Cabinet; and

(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Tourism Development Cabinet, the secretary of the Education[~~, Arts, and Humanities~~] Cabinet, and the secretary of the Executive Cabinet.

Section 33. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

  (a) The coordination plan;
  (b) The community partnership strategic plans;
  (c) The increase in the efficiency and effectiveness of services;
  (d) The boards and commissions eliminated;
  (e) The boards and commissions identified as duplicative; and
  (f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

  (a) The Governor's designee;
  (b) The secretary of the Cabinet for Families and Children;
  (c) The secretary for the Cabinet for Health Services;

(d) The secretary of the Cabinet of Economic Development;

(e) The secretary of the Justice Cabinet;

(f) The secretary of ***the Education Cabinet***[~~Arts, Education and Humanities~~];

(g) The secretary of the Tourism Cabinet;

(h)[~~— The secretary of the Cabinet for Workforce Development;~~

~~(i)~~] The commissioner of education;

(i)[~~(j)~~] The commissioner of juvenile justice;

(j)[~~(k)~~] The director of the Administrative Office of the Courts;

(k)[~~(l)~~] Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and

(l)[~~(m)~~] The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 34. KRS 200.700 is amended to read as follows:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the ***Division***[~~Office of the Governor, Office~~] of Early Childhood Development, for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

(a) The [~~executive~~]director of the ***Division***[~~Governor's Office~~] of Early Childhood Development, who shall serve as chair;

(b) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet;

(c) The secretary of the Cabinet for Health Services;

(d) The secretary of the Cabinet for Families and Children;

(e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

(f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

(g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;

(h) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and

(i) One (1) early childhood development advocate.

(3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;
(b) The Kentucky Chamber of Commerce;
(c) The Kentucky League of Cities;
(d) The Kentucky Medical Association;
(e) The Louisville Urban League and Lexington Urban League;
(f) The Kentucky County Judge/Executives Association; and
(g) The [~~Kentucky~~]Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:
1. One (1) year for two (2) of the initial terms;
2. Two (2) years for three (3) of the initial terms;
3. Three (3) years for two (2) of the initial terms; and
4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 35. KRS 200.705 is amended to read as follows:

The ***Division***[~~Office~~] of Early Childhood Development in the ***Department of Education***[~~Office of the Governor~~] shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;
(2) The Early Childhood Business Council;
(3) The Early Childhood Professional Development Council; and
(4) The Kentucky Early Intervention System Interagency Coordinating Council.

Section 36. KRS 200.709 is amended to read as follows:

(1) The Early Childhood Business Council is created and attached to the ***Division***[~~Office~~] of Early Childhood Development[~~, Office of the Governor,~~] for administrative purposes. The function of the council shall be to:

(a) Involve the corporate community, county judges/executive, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and

(b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:
1. Five (5) members shall be appointed for three (3) years;
2. Five (5) members shall be appointed for two (2) years; and

3. Five (5) members shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.

(c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

Section 37. KRS 200.711 is amended to read as follows:

(1) The Early Childhood Professional Development Council is created and attached to the ***Division***~~[Office]~~ of Early Childhood Development~~[, Office of the Governor,]~~ for administrative purposes. The Early Childhood Professional Development Council shall be composed of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall be appointed for a term of four (4) years and the council shall cease to exist four (4) years after July 14, 2000, unless reauthorized by the General Assembly. Members of the council shall have experience in early child care and education.

(2) The Early Childhood Professional Development Council, in collaboration with the Council on Postsecondary Education, shall:

(a) Work with existing entities to develop an early child care and education credential system to facilitate the attraction and retention of persons who provide early child-care and education services; and

(b) Work to develop a seamless system of professional development beginning with entry level employment in early child care and education and proceeding through a master's degree-level program.

(3) The Early Childhood Professional Development Council shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

(4) Members of the Early Childhood Professional Development Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 38. KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education~~[, Arts, and Humanities]~~ Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination.

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 39. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;

2. The A.G. Bell Association;

3. The Kentucky School for the Deaf Alumni Association; and

4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

(b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for Health Services, Department for Mental Health and Mental Retardation Services;
2. The ***Education*** Cabinet~~[for Workforce Development]~~, Department of Vocational Rehabilitation;
3. The Cabinet for Health Services, Office of Aging Services;
4. The Education~~[, Arts, and Humanities]~~ Cabinet, Commission on the Deaf and Hard of Hearing;
5. The Kentucky Registry of Interpreters for the Deaf; and
6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
2. Reports the number of deaf or hard-of-hearing persons served;
3. Identifies additional service needs for the deaf and hard-of-hearing; and
4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 40. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:

(a) Department of Agriculture, appointed by the Commissioner of Agriculture;
(b) Tourism Development Cabinet, appointed by the secretary of the cabinet;
(c) Education~~[, Arts, and Humanities]~~ Cabinet, appointed by the secretary of the cabinet;
(d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
(e) University of Kentucky Cooperative Extension Service;
(f) West Kentucky Corporation;
(g) Kentucky Tourism Council;
(h) Kentucky Farm Bureau;
(i) Kentucky Association of Fairs and Horse Shows;
(j) East Kentucky Corporation;
(k) Southern and Eastern Kentucky Tourism Development Association;
(l) Licking River Valley Resource Conservation and Development Council;
(m) Buffalo Trace Covered Bridge Authority;
(n) Kentucky Chamber of Commerce; and
(o) Kentucky Council of Area Development Districts;

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 41. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for Health Services and the Education~~[, Arts, and Humanities]~~ Cabinet and the ***commissioner of education***~~[chief state school officer]~~ shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 42. KRS 347.050 is amended to read as follows:

The Cabinet for Health Services, the Education~~[, Arts, and Humanities]~~ Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral, and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely, and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives, and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies, and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 43. KRS 347.060 is amended to read as follows:

The Cabinet for Health Services, the Education~~[, Arts, and Humanities]~~ Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 44. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other

provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

- (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
- (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
- (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
- (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
- (e) Administrative hearings conducted by the legislative and judicial branches of state government;
- (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
- (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
- (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
- (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
- (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
        - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
        - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
    - ***2. Unemployment Insurance hearings conducted under authority of KRS Chapter 341.***
- (b) Cabinet for Health Services
    - 1. Office of Certificate of Need
        - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
        - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
- (c) Cabinet for Families and Children
    - 1. Department for Community Based Services
        - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 2. Department for Disability Determination Services
        - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
- (d) Justice Cabinet
    - 1. Department of State Police
        - a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    - 2. Department of Corrections
        - a. Parole Board hearings conducted under authority of KRS Chapter 439
        - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
        - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
    - 3. Department of Juvenile Justice
        - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (e) Labor Cabinet
    - 1. Department of Workers' Claims
        - a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet
  1. Department for Surface Mining Reclamation and Enforcement
    a. Surface mining hearings conducted under authority of KRS Chapter 350
  2. Department for Environmental Protection
    a. Wild River hearings conducted under authority of KRS Chapter 146
    b. Water resources hearings conducted under authority of KRS Chapter 151
    c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission
  1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet
  1. Board of Claims
    a. Liability hearings conducted under authority of KRS Chapter 44
  2. Public Service Commission
    a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) ***Education*** Cabinet~~[for Workforce Development]~~
  1. Department for Employment Services
    a. Unemployment Insurance ***Commission*** hearings conducted under authority of KRS Chapter 341

(j) Secretary of State
  1. Registry of Election Finance
    a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k) State universities and colleges
  1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  3. Campus residency hearings conducted under authority of KRS Chapter 164
  4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 45. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the secretary of the ***Education*** Cabinet~~[for Workforce Development]~~ or the commissioner of the Department of State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 46. KRS 42.4592 is amended to read as follows:

(1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:

(a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.

(b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:

1. Percentage of employment in mining in relation to total employment in the respective county;

2. Percentage of earnings from mining in relation to total earnings in the respective county; and

3. Surplus labor rate.

(c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties. For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Department of Employment Services in the ***Education*** Cabinet[~~for Workforce Development~~], as provided in paragraph (b) of this subsection.

(b) 1. Each year the Department for Employment Services shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Department of Employment Services may consult with knowledgeable individuals including, but not limited to, the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

Section 47. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the Department for the Blind contracts under KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of individuals with severe disabilities as described in KRS 45A.465.

(2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.

(4) The Department for the Blind within the ***Education*** Cabinet[~~for Workforce Development~~] and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.

(5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

Section 48. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the ***former*** Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 49. KRS 96A.095 is amended to read as follows:

(1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Families and Children, the Cabinet for Health Services, and the ***Education*** Cabinet~~[for Workforce Development]~~, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;

(b) A city;

(c) A county;

(d) Other public mass transit providers;

(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or

(f) An entity providing human service transportation delivery.

(2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;

(b) A city;

(c) A county;

(d) Other public mass transit providers;

(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or

(f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

(3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.

(4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

Section 50. KRS 151B.020 is amended to read as follows:

(1) The ***Education*** Cabinet [~~for Workforce Development~~]is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, ***units listed in Section 3 of this Act,*** and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) [~~The Department for Adult Education and Literacy, which is created by KRS 151B.023;~~

~~(b)~~]The Department for Technical Education, which is created by KRS 151B.025;

(b)[~~(c)~~]The Department of Vocational Rehabilitation, which is created by KRS 151B.185;

(c)[~~(d)~~]The Department for the Blind established by KRS 163.470;

(d)[~~(e)~~]The Department for Employment Services, which is created by KRS 151B.280;

(e)[~~(f)~~] The Kentucky Technical Education Personnel Board established in KRS 151B.097;

(f)[~~(g)~~] The Foundation for Adult Education established by KRS 151B.130;

(g)[~~(h)~~] The Unemployment Insurance Commission established by KRS 341.110; and

(h)[~~(i)~~] The Department for Training and Reemployment created in KRS 151B.260.

(3) The executive officer of the cabinet shall be the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~]. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The Office of the Secretary of the ***Education*** Cabinet [~~for Workforce Development~~]shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The division shall be headed by a director appointed by the secretary of the ***Education*** Cabinet [~~for Workforce Development~~]pursuant to KRS 12.050.

(4) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~]and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~]may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~]shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt

of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 51. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the ***Education*** Cabinet~~[for Workforce Development]~~. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The commissioner shall be appointed to the unclassified service by the secretary of the ***Education*** Cabinet~~[for Workforce Development]~~ with the approval of the Governor pursuant to KRS 12.050. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The commissioner of the Department for Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the department's jurisdiction.

(5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of the required plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the commissioner and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.

(10) The commissioner of the department shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~ for review and modification.

Section 52. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050 and assign duties as appropriate.

(2) There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created a Division of School Services within the Department for Technical Education. The Division of School Services shall be headed by a director appointed by the commissioner of the Department for Technical Education under KRS 12.050. The Division of School Services shall be composed of organizational entities as deemed appropriate by the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~ as set forth by administrative order.

(4) The commissioner shall appoint an ombudsman and specify his ***or her*** functions and duties.

(5) The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097, shall be attached to the department for administrative purposes.

Section 53. KRS 151B.035 is amended to read as follows:

(1) The commissioner of the Department for Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the commissioner of the Department for Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The commissioner of the Department for Technical Education shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the commissioner of the Department for Technical Education shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the commissioner and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the commissioner of the Department for Technical Education shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the commissioner of the Department for Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Technical Education.

(5) The commissioner for Technical Education shall be the appointing authority with respect to all personnel actions for the department. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the commissioner and shall be contingent upon confirmation by the commissioner and the board.

(6) The commissioner of the Department for Technical Education shall promulgate other administrative regulations to govern

proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The commissioner of the Department for Technical Education shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the commissioner, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The commissioner of the Department for Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the Department for Technical Education[~~and the Department for Adult Education and Literacy~~] attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Department for Technical Education and personnel in the Department for Adult Education and Literacy.

(10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The commissioner of the Department for Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 54. KRS 151B.097 is amended to read as follows:

(1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the Department for Technical Education under KRS Chapter 151B. Appeals shall be conducted in

accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the Department for Technical Education for administrative purposes.

(2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the ***Education*** Cabinet[~~for Workforce Development~~], except no member shall be an employee within the Office of the Secretary or the Department for Technical Education. The remaining two (2) members shall be teachers employed by the Department for Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.

(a) The Governor shall appoint the two (2) members elected by the teachers employed by the Department for Technical Education's Area Technology Centers and the three (3) members selected from employees of agencies within the ***Education*** Cabinet[~~for Workforce Development~~]. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

(b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.

(c) A chair shall be elected annually by members of the board.

(3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.

(4) The Department for Technical Education shall provide administrative, budgetary and support staff services for the board.

(5) Employees of the ***Education*** Cabinet[~~for Workforce Development~~] who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the commissioner of the Department for Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.

(6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

Section 55. KRS 151B.120 is amended to read as follows:

(1) The ***vice president for the Kentucky Adult Education System***[~~commissioner of the Department for Adult Education and Literacy~~] and the commissioner of the Department for Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the secretary of the ***Education***[~~Workforce Development~~] Cabinet and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate commissioner. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) ***The vice president and***[~~Each~~] commissioner may approve authorization for his ***or her*** department to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 56. KRS 151B.125 is amended to read as follows:

(1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.

(a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the ***Kentucky Adult Education System's***[~~Department for Adult Education and Literacy~~] approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the Department for Adult Education and Literacy for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

(b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.

(2) The ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.

Section 57. KRS 151B.127 is amended to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

(1) The ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ in conjunction with the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:

(a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;

(b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;

(c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.

(2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars ($250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The ***system***~~[department]~~, with the cooperation of the Council on Postsecondary Education, shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars ($1250).

Section 58. KRS 151B.130 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the ***Education*** Cabinet ~~[for Workforce Development]~~with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the cabinet.

(4) The foundation shall be attached to the office of the secretary of the ***Education*** Cabinet ~~[for Workforce Development]~~for administrative purposes.

Section 59. KRS 151B.155 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 151B.145, and the State Treasurer shall collect the money and pay it out upon the order of the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~.

Section 60. KRS 151B.185 is amended to read as follows:

(1) The Department of Vocational Rehabilitation is hereby created and shall be attached to the ***Education*** Cabinet~~[for Workforce Development]~~. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. The department shall be composed of Divisions of Administrative Management, Program Planning and Development, Program Services, and the Carl D. Perkins Comprehensive Rehabilitation Center. Each division shall be headed by a director appointed by the commissioner of the Department of Vocational Rehabilitation, and shall be composed of organizational entities as deemed appropriate by the commissioner of the

Department of Vocational Rehabilitation, as set forth by administrative order.

(2) The Department of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.

(3) The department shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the department shall be the commissioner of the Department of Vocational Rehabilitation. The commissioner shall be appointed by the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~. The commissioner shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department.

(5) Except as otherwise provided, the department shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The office of the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~ is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) Employees under the jurisdiction of the Department of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 61. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the ***Secretary of the Education*** Cabinet~~[for Workforce Development]~~.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to, the following:

(a) To coordinate and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The ***secretary of the Education*** Cabinet~~[for Workforce Development]~~, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, ***Education*** Cabinet~~[for Workforce Development]~~, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The commissioner of the Department for Technical Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***vice president of the Kentucky Adult Education System***[~~commissioner of the Department for Adult Education and Literacy~~];

(g) The commissioner of the Department for the Blind;

(h) The two (2) chancellors of the Kentucky Community and Technical College System;

(i) A representative from the Kentucky Council on Postsecondary Education;

(j) A representative from the Kentucky Chamber of Commerce; and

(k) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the ***Education*** Cabinet[~~for Workforce Development~~].

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 62. KRS 151B.225 is amended to read as follows:

(1) There is hereby created a Client Assistance Program which is assigned for administrative purposes to the Office of Budget and Administrative Services within the office of the ***secretary of the Education*** Cabinet[~~for Workforce Development~~].

(2) The Client Assistance Program shall pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the cabinet, on behalf of the Client Assistance Program, may contract with other state agencies to obtain necessary legal or other professional services.

(3) The Office of Budget and Administrative Services shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

Section 63. KRS 151B.230 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.

(3) The foundation shall be governed by a board of trustees to be appointed by the ***secretary of the Education*** Cabinet[~~for Workforce Development~~] based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the Department for Technical Education.

(4) The foundation shall be attached to the office of the ***secretary of the Education*** Cabinet[~~for Workforce Development~~] for administrative purposes.

(5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 64. KRS 151B.250 is amended to read as follows:

(1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.

(2) The Department for Technical Education within the ***Education*** Cabinet[~~for Workforce Development~~] shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and

coordination occur. The following elements shall be coordinated when possible:

(a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;

(b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;

(c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;

(d) Applied learning experiences;

(e) Integration of academic and occupational education;

(f) Performance assessment;

(g) Actual or simulated learning at the school or the worksite;

(h) Curriculum based on skill standards representing all aspects of an industry;

(i) Secondary to postsecondary articulation;

(j) Postsecondary articulation; and

(k) Professional development opportunities for all partners.

(3) The Department for Technical Education may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

(4) The Department for Technical Education shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 65. KRS 151B.260 is amended to read as follows:

The Department for Training and Reemployment is hereby created and established within the ***Education*** Cabinet~~[for Workforce Development]~~. The Department for Training and Reemployment shall be headed by a commissioner who shall be appointed by the Governor under KRS 12.040.

Section 66. KRS 151B.280 is amended to read as follows:

(1) The Department for Employment Services is created and shall be attached to the ***Education*** Cabinet~~[for Workforce Development]~~. The Department for Employment Services shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet.~~[In addition, the department shall develop and operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.]~~

(2) The Department for Employment Services shall be headed by a commissioner appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The commissioner for employment services shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The commissioner of employment services shall exercise authority over the Department for Employment Services under the direction of the secretary, and shall fulfill only the responsibilities delegated by the secretary.

(3) (a) The secretary of the ***Education*** Cabinet~~[for Workforce Development]~~ shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the Department for Employment Services which directly or indirectly identify a client or former client and which insure that these records are not disclosed to or by any person except and insofar as:

1. The person identified shall give his consent; or

2. Disclosure may be permitted under state or federal law.

(b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the Department for Employment Services may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The Department for Employment Services may share information concerning a client or applicant with any private or quasi-private agency if:

1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and

2. The agency has a direct, tangible, and legitimate interest in the individual.

Section 67. KRS 151B.285 is amended to read as follows:

The ***Education*** Cabinet~~[for Workforce Development]~~ shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the ***Education*** Cabinet~~[for Workforce Development]~~. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state. in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The ***Education*** Cabinet~~[for Workforce Development]~~ is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

Section 68. KRS 151B.410 is repealed, reenacted as a section of KRS Chapter 164, and amended to read as follows:

(1) The ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical colleges, community colleges, regional universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.

(2) Services included as part of the adult education and literacy system shall include, but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.

(3) In administering an adult education and literacy system, the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ shall:

(a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including high school equivalency diploma preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;

(c) Assist adult educators to meet professional standards;

(d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;

(e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(f) Require and monitor compliance with the department's administrative regulations and policies; and

(g) Develop and implement performance measures and benchmarks.

Section 69. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

(1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life.

(2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation.

(3) "Cabinet" means the ***Education*** Cabinet ~~[for Workforce Development]~~.

(4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455.

(5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470.

(6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund.

(7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

Section 70. KRS 151B.455 is amended to read as follows:

(1) The Kentucky Assistive Technology Loan Corporation is created and established as an independent de jure municipal

corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.

(2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:

(a) The secretary of the ***Education*** Cabinet ~~[for Workforce Development]~~ or the secretary's designated representative;

(b) One (1) attorney with lending expertise;

(c) One (1) representative of a financial lending institution; and

(d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.

(3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.

(4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.

(5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.

(6) The Governor may remove any board member in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 71. KRS 151B.460 is amended to read as follows:

(1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its membership, and a chair shall be elected annually thereafter.

(2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.

(3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.

(4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the availability of funding.

(5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.

(6) The ***Education*** Cabinet ~~[for Workforce Development]~~ shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

Section 72. KRS 151B.470 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.

(2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.

(3) The fund shall be under the administrative control of the board.

(4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the ***Education*** Cabinet ~~[for Workforce Development]~~ to be expended for programs and services for Kentuckians with disabilities.

Section 73. KRS 154.10-050 is amended to read as follows:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~.

Section 74. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the president of the Council on Postsecondary Education, the secretary of the ***Education*** Cabinet~~[for Workforce Development]~~ and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The

executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 75. KRS 154.12-207 is amended to read as follows:

(1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars ($200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.

(3) Approval of the grant-in-aid application by the board shall be based upon the following criteria:

(a) The program must be within the scope of KRS 154.12-204 to 154.12-208;

(b) Participants in the program must be limited to a Kentucky resident, as the term is defined in KRS 141.010;

(c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;

(d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;

(e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance, and financial support which, together with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid;

(f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation; and

(g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~.

Section 76. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;

(2) "Approved costs" means:

(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;

(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and

(f) All other costs of a nature comparable to those described in this subsection;

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;

(6) "Employee" means any person:

(a) Who is currently a permanent full-time employee of the qualified company;

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

(c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

(d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet[~~for Workforce Development~~].

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 77. KRS 154.20-150 is amended to read as follows:

(1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky

Economic Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the Kentucky Department for Employment Services, ***Education*** Cabinet~~[for Workforce Development]~~, and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

Section 78. KRS 154.20-170 is amended to read as follows:

(1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

(2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet~~[for Workforce Development]~~.

Section 79. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky ***Education*** Cabinet[~~for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 80. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Department for Employment Services in the ***Education*** Cabinet ~~[for Workforce Development]~~;

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

(5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

Section 81. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the ***Education Cabinet***[~~Kentucky Cabinet for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means:

(a) A service or technology activity conducted by an approved company; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13) "Local government" means a city, county, or urban-county government;

(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(16) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(17) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(19) "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;

(20) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy that includes but is not limited to property taxes, heating and air conditioning, electricity, sewer, and insurance;

(21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22) "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication;

(23) "Start-up costs" mean the cost of furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.23-040;

(24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 82. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 83. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
    a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the ***Education***~~[Kentucky]~~ Cabinet~~[for Workforce Development]~~ collectively translated into wages per hour

based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(19) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(20) "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(21) "Start-up costs" means the acquisition cost of furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, relocation costs, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 84. KRS 154.26-080 is amended to read as follows:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.

(5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.

(6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the ***Education*** Cabinet [~~for Workforce Development~~], and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.

(7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.

(8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

(9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.

(10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.

(11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 85. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" means the following:

  (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

  (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

  (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

  (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
    a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or
2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:
1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the ***Education***[~~Kentucky~~] Cabinet[~~for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property,

including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 86. KRS 154.45-120 is amended to read as follows:

The ***Education*** Cabinet~~[for Workforce Development]~~ shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The ***Education*** Cabinet~~[for Workforce Development]~~ shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 87. KRS 154.47-015 is amended to read as follows:

(1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:

(a) Disseminating information;

(b) Providing services;

(c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and

(d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.

(2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the ***Education*** Cabinet~~[for Workforce Development]~~; and four (4) members representing the following universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.

(3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:

(a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:

1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;

2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;

3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;

4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and

5. One (1) from a list of three (3) nominees from private business submitted in writing by the Kentucky Economic Development Partnership.

(b) The Kentucky Forest Products Council, the secretary of the ***Education*** Cabinet~~[for Workforce Development]~~, and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.

(c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.

(d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.

(4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the ***Education*** Cabinet~~[for Workforce Development]~~, all appointments shall have a term of four (4) years. The term for the person appointed from the ***Education*** Cabinet~~[for Workforce Development]~~ shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in

this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

Section 88. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives:

(a) Department of Education;

(b) Department for Employment Services of the ***Education*** Cabinet~~[for Workforce Development]~~;

(c) Department for Health Services of the Cabinet for Human Resources;

(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;

(e) Department for Social Services of the Cabinet for Human Resources;

(f) Department for Social Insurance of the Cabinet for Human Resources;

(g) Justice Cabinet;

(h) Governor's Office;

(i) Office of the Secretary, ***Education*** Cabinet~~[for Workforce Development]~~;

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments;

(p) Local community action agencies; and

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(8) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the ***Kentucky Board of***[~~State Board for Elementary and Secondary~~] Education, the Governor, and the Legislative Research Commission.

(9) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 89. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:

(a) The chairman of the Council on Postsecondary Education;

(b) The president of the Council on Postsecondary Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~];

(f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and

(g) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 90. KRS 156.749 is amended to read as follows:

(1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.

(2) All meetings will be held in Frankfort, Kentucky, upon the call of the chairman or a majority vote of the membership. In the initial year, the secretary of the ***Education*** Cabinet[~~for Workforce Development~~] shall serve as chairperson.

Section 91. KRS 158.360 is amended to read as follows:

(1) The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department.

(2) The programs shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of under education and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services.

Section 92. KRS 158.794 is amended to read as follows:

(1) The Early Reading Incentive Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the early reading incentive grant fund created by KRS 158.792. The committee shall be composed of fifteen (15) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, the *vice president of the Kentucky Adult Education System*[~~commissioner of the Department for Adult Education and Literacy~~] or the *vice president's*[~~commissioner's~~] designee, and the following members, to be appointed by the Governor:

(a) Two (2) primary program teachers with a specialty or background in reading and literacy;

(b) Eight (8) university professors with a specialty or background in reading and literacy representing each of the public universities; and

(c) Two (2) individuals from the state at large with background and interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, four (4) members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs in schools throughout the state regarding reading and literacy programs;

(b) Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;

(c) Develop a process for monitoring grants that are awarded; and

(d) Recommend approval of grant applications based upon criteria established by the committee.

Section 93. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the *vice president of the Kentucky Adult Education System*[~~commissioner of the Department for Adult Education and Literacy~~].

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same

rate of salary adjustment as provided for other local board of education employees in the same classification.

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 94. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) ***Employees of the Council on Postsecondary Education who were employees of*** the Department for Adult Education and Literacy ***and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600***[~~, except that the commissioner shall not be a member~~];

(h) The Department for Technical Education, except that the commissioner shall not be a member;

(i) The Department of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the ***former*** Cabinet for Workforce Development who ***were***[~~are~~] transferred to the Kentucky Community and Technical College System***, effective July 1, 1998,*** and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the ***former*** Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the ***former*** Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the ***former*** Cabinet for Workforce Development and the commissioners of the ***former*** Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the twelve (12) months immediately preceding the member's effective retirement date, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 95. KRS 163.470 is amended to read as follows:

(1) There is created within the ***Education*** Cabinet [~~for Workforce Development~~]the Department for the Blind.

(2) The commissioner shall be appointed by the Governor upon the recommendation of the secretary of the ***Education*** Cabinet [~~for Workforce Development~~]to whom he ***or she*** shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the ***Education*** Cabinet [~~for Workforce Development~~]is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the commissioner.

(4) (a) The Kentucky Department for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.

(b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the Department for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(c) Each member of the Department for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.

(5) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(6) At the close of each biennium, the department shall prepare a financial report and present it to the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(7) The department shall coordinate its functions with other appropriate public and private agencies.

(8) The department shall perform all other duties as required of it by law.

(9) The commissioner shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.

(10) There shall be created under the authority of the department, to be directed by the commissioner, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(11) There shall be established under the authority of the department to be directed by the commissioner, a Division of Business Enterprises. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(12) There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department, at all times, shall be authorized to provide industrial

evaluation, training, and employment.

(13) The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office, and other staff services as may be deemed necessary.

(14) The provisions of any other statute notwithstanding, the commissioner is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

SECTION 96. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Adult Education System is created to carry out the statewide adult education mission. The system shall implement a twenty (20) year state strategy to reduce the number of adults who are at the lowest levels of literacy and most in need of adult education and literacy services. The system shall have responsibility for all functions related to adult education and literacy.

(2) The Kentucky Adult Education System is part of the Council on Postsecondary Education and shall be organized in a manner as directed by the president of the Council on Postsecondary Education. The system shall be headed by a vice president appointed by the president of the Council on Postsecondary Education.

(3) The Kentucky Adult Education System, Council on Postsecondary Education, shall be the agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations.

Section 97. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);

(4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;

(7) "Council" means the Council on Postsecondary Education created in KRS 164.011;

(8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(9) "Goals" means the six (6) goals specified in KRS 164.003(2);

(10) "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;

(11) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(12) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the ***Education*** Cabinet~~[for Workforce Development]~~; and

(b) The University of Kentucky Community College System, with the exception of the Lexington Community College.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(13) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(14) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(15) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(16) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(17) "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;

(18) "Public" means operated with state support;

(19) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;

(20) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(21) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(22) "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and

(23) "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

Section 98. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise

policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;

(34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:

    (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ and with other agencies and institutions;

    (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

    (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

    (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

    (e) Administer the adult education and literacy initiative fund created under KRS 164.041; and

(35) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 99. KRS 164.0203 is amended to read as follows:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in

furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;
2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and
3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.

Section 100. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading models;

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(f) Establishing a demonstration and training site for early literacy located at each of the public universities; and

(g) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.

(3) With the advice of the ***Kentucky Adult Education System***~~[Department of Adult Education and Literacy in the Cabinet for Workforce Development]~~ and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location and monitor the progress of the center.

Section 101. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ and the Collaborative Center for Literacy Development: Early Childhood through Adulthood, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

Section 102. KRS 164.041 is amended to read as follows:

(1) There is created in the Council on Postsecondary Education, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. Moneys accumulated in this fund on July 14, 2000, shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.

(2) The purpose of the adult education and literacy initiative fund shall be to support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities.

(3) The council, in collaboration with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under KRS 164.0207 shall evaluate the reading and literacy components of model programs funded under this paragraph.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ and as compatible with funds provided under Title II of the Federal Workforce Investment Act;
2. A statewide competency-based certification for transferable skills in the workplace; and
3. A statewide public information and marketing campaign.

Section 103. KRS 164.5805 is amended to read as follows:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the ***former*** Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System.

(a) The staff positions in the Department for Technical Education and the ***former*** Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical

Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs.

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

Section 104. KRS 314.452 is amended to read as follows:

(1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing Workforce Foundation.

(2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.

(3) The foundation shall be governed by a board, the membership of which shall consist of the following:

(a) President, or a designee, of the Kentucky Community and Technical College System;

(b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;

(c) President, or a designee, of the Council on Postsecondary Education;

(d) Secretary, or a designee, of the ***Education***~~[Kentucky]~~ Cabinet~~[for Workforce Development]~~;

(e) Executive Director, or a designee, of the Kentucky Board of Nursing;

(f) President, or a designee, of the Kentucky Nurses Association;

(g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;

(h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;

(i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and

(j) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.

(4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.

(5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.

(6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

(7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.

(8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of KRS 314.450 to 314.464.

(9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

Section 105. KRS 314.464 is amended to read as follows:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the ***Education*** Cabinet~~[for Workforce Development]~~, and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

Section 106. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Cabinet" means the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~.

(2) "Secretary" means the secretary ***of the Finance and Administration Cabinet***~~[for workforce development]~~ or his ***or her*** duly authorized representative.

(3) "Commission" means the unemployment insurance commission.

Section 107. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) Except in so far as the ***Finance and Administration*** Cabinet ~~[for Workforce Development]~~by regulation prescribes the equivalent thereof to meet particular conditions:

  (a) "Calendar year" means a year beginning on January 1; and

  (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;

(2) "Week" means such period of seven (7) consecutive calendar days as the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ by regulation prescribes; and

(3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ ***administrative*** regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

Section 108. KRS 341.110 is amended to read as follows:

(1) In the ***Education*** Cabinet ~~[for Workforce Development]~~there shall be an Unemployment Insurance Commission composed of the secretary ***of Education*** or his ***or her*** duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.

(2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.

(3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.

(4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the members representing labor and employers shall be $12,000 each per annum.

Section 109. KRS 341.125 is amended to read as follows:

(1) It shall be the duty of the secretary ***of the Finance and Administration Cabinet and the secretary of the Education Cabinet*** to administer this chapter; and ***they***~~[he]~~ shall have power and authority to make such expenditures, require such

reports, make such investigations, and take such other action, not specifically assigned to the cabinet[~~ for Workforce Development~~], as ***they deem***[~~he deems~~] necessary for the proper administration of this chapter.

(2) The ***secretaries are***[~~secretary is~~] authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation and prescribe duties and powers of such officers and employees as may be necessary in the performance of ***their***[~~his~~] duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The ***secretaries***[~~secretary~~] shall not employ or pay any person who is an officer or committee member of any political party organization. The ***secretaries***[~~secretary~~] may delegate to any such person so appointed such power and authority as ***they deem***[~~he deems~~] reasonable and proper for the effective administration of this chapter.

(3) The salary and expenses of the ***secretaries and their staffs***[~~secretary and his staff~~] shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the ***cabinets***[~~cabinet~~].

(4) The ***secretaries***[~~secretary~~] shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as ***they*** [~~he~~] deems proper.

(5) In the administration of this chapter the ***secretaries***[~~secretary~~] shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

Section 110. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary ***of the Finance and Administration Cabinet***[~~ for workforce development~~] considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his ***or her*** authorized representatives at any reasonable time and as often as necessary.

(2) The secretary[~~ for workforce development~~] may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary[~~ for workforce development~~] considers necessary to the effective administration of this chapter.

(3) Information obtained from an employing unit or individual and other records made by the cabinet ***or commission*** in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below:

(a) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released.

(b) A claimant or employing unit or his legal representative shall be provided upon request information or records maintained by the cabinet in the administration of his claim, his reserve account, his reimbursing employer account, or any proceeding under this chapter to which he is a party.

(c) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit.

(d) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

(4) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

Section 111. KRS 341.200 is amended to read as follows:

(1) In the discharge of the duties imposed by this chapter members of the commission, the secretary or any duly authorized representative thereof, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of this chapter. Such subpoena shall be served in the same manner as a subpoena issued out of a Circuit Court, and the sheriff shall receive the same fee as provided by law for like service in civil actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the rates prescribed by KRS 421.015 for each day their attendance is actually required at a hearing.

(2) The secretary, ***or the commission,*** or any ***of their*** authorized ***representatives***[~~representative of the secretary~~], shall have the power, in any and all counties of this Commonwealth, now granted by law to sheriffs within their respective jurisdictions, to execute and make due return of all notices, summonses, including summonses duces tecum, subpoenas, and executions in respect to all court actions instituted to enforce the provisions of this chapter. [~~Neither~~]The secretary***, a member of the commission, or any of their authorized representatives***[~~nor his authorized representative~~] shall ***not*** be deemed to be an interested party in the action by reason of his official or representative capacity.

Section 112. KRS 341.230 is amended to read as follows:

The ***secretaries***[~~secretary~~] may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the ***Finance and Administration Cabinet and the Education*** Cabinet [~~ for Workforce Development~~]or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the ***secretaries***[~~secretary~~]. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

Section 113. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary ***of Finance and Administration and the secretary of Education are***[~~ is~~] authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the cabinet by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

Section 114. KRS 341.275 is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the ***Finance and Administration*** Cabinet[~~ for Workforce Development~~] and "secretary" shall mean the secretary ***of finance and administration***[~~ for workforce development~~].

(2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.

(a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.

(b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.

(d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.

(e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).

(3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each calendar quarter, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.

(d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the ***commission***[~~cabinet~~], setting forth the grounds for such appeal. Proceedings on appeal to the ***commission***[~~cabinet~~] from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the ***commission***[~~cabinet~~] shall be subject to review under the provisions of KRS 341.460(1).

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.

(4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.

(b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.

(5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.

(6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

Section 115. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work which was concurrent with his most recent work, or for leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home, or for otherwise accepting work which is a bona fide job offer with a reasonable expectation of continued employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 116. KRS 341.420 is amended to read as follows:

(1) The secretary shall appoint one (1) or more impartial referees according to KRS 341.125 to hear and decide appealed claims.

(2) A party to a determination may file an appeal to a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the secretary, or a decision of a referee ***or the commission***, the secretary or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

(5) No finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation under this chapter may be conclusive or binding in any separate or subsequent action or proceeding in another forum, except proceedings under this chapter, regardless of whether the prior action was between the same or related parties or involved the same facts.

Section 117. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, such hearings to be conducted in a summary manner. A

complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the ***cabinet***~~[department]~~ or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 118. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the ***Finance and Administration Cabinet***~~[Department for Employment Services, Cabinet for Workforce Development]~~ prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his ***or her*** representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 119. KRS 341.530 is amended to read as follows:

(1) The ***cabinet***~~[department]~~ shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the

cabinet~~[department]~~, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 120. KRS 341.990 is amended to read as follows:

(1) Any employee of any state department who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the ***cabinet***~~[department]~~.

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.

Section 121. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism

evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm

operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, ***Finance and Administration*** Cabinet~~[for Workforce Development]~~. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 122. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Revenue Cabinet shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding

Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The ***Finance and Administration Cabinet***~~[Department for Employment Services, Cabinet for Workforce Development]~~ is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 123. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the commissioner by the ***Finance and Administration*** Cabinet[~~ for Workforce Development~~] in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140, 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the commissioner to be in effect in the calendar year of 1994. If the average weekly wage calculated by the commissioner is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

Section 124. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation***,***[~~ and~~] the Department for Employment Services of the ***Education***[~~Kentucky~~] Cabinet***, and the Finance and Administration Cabinet***[~~ for Workforce Development~~]. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated

benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 125. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the commissioner by the ***Finance and Administration*** Cabinet[~~ for Workforce Development~~] in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by $1 or more, or the maximum weekly income benefits for total disability or for death by $2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

Section 126. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Department for Employment Services, ***Education*** Cabinet***,*** [~~for Workforce Development~~]which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be paid directly to the jailer and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court shall not direct that any payment authorized under this section be paid through the circuit clerk.

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 127. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] within the ***Council on Postsecondary Education***[~~Cabinet for Workforce Development~~] which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy within the Cabinet for Workforce Development~~] shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 128. The following KRS sections are repealed:

12.401 Office of Early Childhood Development.

151B.023 Department for Adult Education and Literacy.

156.120 Superintendent of Public Instruction -- Location of office -- Traveling expenses -- Salary.

156.666 Council for Education Technology -- Membership -- Duties.

Section 129. (1) The Tax Status and Accounting Branch, the Technical Services Branch, the Tax Audit and Enforcement Branch, the Benefits Branch and the Appeals Branch residing in the Department for Employment Services, Division of Unemployment Insurance, and the Division of Unemployment Insurance in its entirety, including but not limited to the Director's Office, shall be transferred to the Finance and Administration Cabinet. Notwithstanding any other provision of law, all of the functions, responsibilities, duties, records, files, equipment, funds, and positions of the division and the aforementioned branches are hereby assigned and transferred to the Finance and Administration Cabinet.

(2) The Education Cabinet, the Department of Personnel, the Office of the State Budget Director and the Finance and Administration Cabinet shall take any and all necessary action to effectuate this transfer. Upon agreement between the secretary of the Education Cabinet and the secretary of the Finance and Administration Cabinet, any and all additional employees of the Education Cabinet and their corresponding duties, files, and equipment shall be transferred from the Education Cabinet to the Finance and Administration Cabinet for the purpose of executing and fulfilling the functions, duties, responsibilities and mission of the organizational units of the Division of Unemployment Insurance hereby transferred to the Finance and Administration Cabinet from the Education Cabinet.

Section 130. Any provisions of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2003-600 dated June 16, 2003, Executive Order 2003-712 dated July 7, 2003, and Executive Order 2003-064 dated December 23, 2003, as it relates to the Education Cabinet and Executive Order 2004-029 dated January 6, 2004, to the extent it is not otherwise confirmed by this Act.

Section 131. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends or repeals the administrative regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the administrative regulations that require any changes to the regulations compiler.

Section 132. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace refererences in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

The House Committee Substitute to **SB 151** is as follows:

SB 151, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education~~[, Arts, and Humanities]~~ Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of forty-eight (48) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Development Cabinet; secretary of the Cabinet for Families and Children; secretary of the Cabinet for Health Services; ~~[secretary of the Cabinet for Workforce Development;]~~secretary of the Education~~[, Arts, and Humanities]~~ Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;

2. Nine (9) at-large members; and

3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified

business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.

(h) Division of Kentucky State Medical Examiners Office.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Commission on Correction and Community Service.

2. Education[~~, Arts, and Humanities~~] Cabinet:

(a) Department of Education.

(1) Kentucky Board of Education.

(b) Department for Libraries and Archives.

(c) ***Council on Postsecondary Education***[~~Kentucky Arts Council~~].

(d) Kentucky Educational Television.

(e) ***Education Professional Standards Board***[~~Kentucky Historical Society~~].

(f) ***Department for Technical Education.***

(g) Department of Vocational Rehabilitation.

(h) Department for the Blind.

(i) Department for Employment Services.

(j) Kentucky Technical Education Personnel Board.

(k) Department for Training and Reemployment.

(l) Office of General Counsel.

(m) Office of Communication Services.

(n) Office of Workforce Partnerships.

(o) Office of Workforce Analysis and Research.

(p) Office of Budget and Administrative Services.

(q) Office of Technology Services.

(r) Office of Quality and Human Resources.

(s) Unemployment Insurance Commission.

[~~Kentucky Teachers' Retirement System Board of Trustees.~~

~~(g) Kentucky Center for the Arts.~~

~~(h) Kentucky Craft Marketing Program.~~]

(t)[~~(i)~~] Kentucky Commission on the Deaf and Hard of Hearing.

(u)[~~(j)~~] Governor's Scholars Program.

[~~(k) Governor's School for the Arts.~~]

(v)[~~(l)~~] Operations and Development Office.

(w)[~~(m)~~] ***Office of Legislative and Intergovernmental Affairs***[~~Kentucky Heritage Council~~].

(x)[~~(n)~~] ***Office of Legal Services***[~~Kentucky African American Heritage Commission~~].

(y)[~~(o)~~]***Office of Communication.***

(z) Board of Directors for the Center for School Safety.

(aa) Kentucky Environmental Education Council.

(bb) Martin Luther King Commission.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of Legal Services.

(g) Office of Information Services.

(h) Office of Inspector General.

4. Transportation Cabinet:

(a) Department of Highways.

1. Office of Program Planning and Management.

2. Office of Project Development.

3. Office of Construction and Operations.

4. Office of Intermodal Programs.

5. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Department of Human Resources Management.

(g) Office of the Secretary.

(h) Office of General Counsel and Legislative Affairs.

(i) Office of Public Affairs.

(j) Office of Transportation Delivery.

(k) Office of Minority Affairs.

(l) Office of Policy and Budget.

(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.
(n) Department of Charitable Gaming.
(o) Mine Safety Review Commission.
7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
  (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.
8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.

    (i) Office of Aging Services.
9. Finance and Administration Cabinet:
    (a) Office of Financial Management.
    (b) Office of the Controller.
    (c) Department for Administration.
    (d) Department of Facilities Management.
    (e) State Property and Buildings Commission.
    (f) Kentucky Pollution Abatement Authority.
    (g) Kentucky Savings Bond Authority.
    (h) Deferred Compensation Systems.
    (i) Office of Equal Employment Opportunity Contract Compliance.
    (j) Office of Capital Plaza Operations.
    (k) County Officials Compensation Board.
    (l) Kentucky Employees Retirement Systems.
    (m) Commonwealth Credit Union.
    (n) State Investment Commission.
    (o) Kentucky Housing Corporation.
    (p) Governmental Services Center.
    (q) Kentucky Local Correctional Facilities Construction Authority.
    (r) Kentucky Turnpike Authority.
    (s) Historic Properties Advisory Commission.
    (t) Kentucky Tobacco Settlement Trust Corporation.
    (u) Eastern Kentucky Exposition Center Corporation.
    (v) State Board for Proprietary Education.
10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Information Technology.
    (m) Office of Labor-Management Relations and Mediation.
    (n) Office of General Counsel.
    (o) Workers' Compensation Funding Commission.
    (p) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:

(a) Department of Travel.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

(h) Tourism Development Finance Authority.

13. [~~Cabinet for Workforce Development:~~

~~(a) Department for Adult Education and Literacy.~~

~~(b) Department for Technical Education.~~

~~(c) Department of Vocational Rehabilitation.~~

~~(d) Department for the Blind.~~

~~(e) Department for Employment Services.~~

~~(f) Kentucky Technical Education Personnel Board.~~

~~(g) The Foundation for Adult Education.~~

~~(h) Department for Training and Reemployment.~~

~~(i) Office of General Counsel.~~

~~(j) Office of Communication Services.~~

~~(k) Office of Workforce Partnerships.~~

~~(l) Office of Workforce Analysis and Research.~~

~~(m) Office of Budget and Administrative Services.~~

~~(n) Office of Technology Services.~~

~~(o) Office of Quality and Human Resources.~~

~~(p) Unemployment Insurance Commission.~~

~~14.~~] Personnel Cabinet:

(a) Office of Administrative and Legal Services.

(b) Department for Personnel Administration.

(c) Department for Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Kentucky Kare.

(f) Division of Performance Management.

(g) Division of Employee Records.

(h) Division of Staffing Services.

(i) Division of Classification and Compensation.

(j) Division of Employee Benefits.

(k) Division of Communications and Recognition.

(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. [~~Council on Postsecondary Education.~~

~~3.~~] Department for Local Government.

3.[~~4.~~] Kentucky Commission on Human Rights.

4.[~~5.~~] Kentucky Commission on Women.

5.[~~6.~~] Department of Veterans' Affairs.

6.[~~7.~~] Kentucky Commission on Military Affairs.

7.[~~8.~~] The Governor's Office for Technology.

8.[~~9.~~] Commission on Small Business Advocacy.

[~~10. Education Professional Standards Board.~~]

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1)[~~Council on Postsecondary Education;~~
~~(2)~~] Department of Military Affairs;
(2)[~~(3)~~] Department for Local Government;
(3)[~~(4)~~] Kentucky Commission on Human Rights;
(4)[~~(5)~~] Kentucky Commission on Women;
(5)[~~(6)~~] Kentucky Commission on Military Affairs;
(6)[~~(7)~~] Kentucky Coal Council;
(7)[~~(8)~~] Governor's Office of Child Abuse and Domestic Violence Services;
(8)[~~(9)~~] Governor's Office for Technology;
(9)[~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12)~~] Commission on Small Business Advocacy; ***and***
[~~(13) Office of Early Childhood Development;~~]
(12)[~~(14)~~] Kentucky Agency for Substance Abuse Policy[~~; and~~]
[~~(15) Education Professional Standards Board~~].

Section 5. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education[~~, Arts, and Humanities~~] Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health Services.
(8) Cabinet for Families and Children.
(9) Finance and Administration Cabinet.
(10) Tourism Development Cabinet.
(11) Revenue Cabinet.
(12) Labor Cabinet.
(13) [~~Cabinet for Workforce Development.~~
~~(14)~~] Personnel Cabinet.

Section 6. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and

monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education~~[, Arts, and Humanities]~~ Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 7. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the Tourism Cabinet;

(e) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 8. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, ***and the*** Lieutenant Governor, [~~and the Superintendent of Public Instruction, ~~]the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education[~~, arts, and humanities~~]	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health services	20,000
Secretary for families and children	20,000
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for community based services	20,000

Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 9. KRS 146.654 is amended to read as follows:

(1) The board of directors of the Kentucky Natural History Museum shall establish the Kentucky Natural History Museum. The board shall implement KRS 146.650 to 146.666 to the extent practical prior to operation of the museum. Working to achieve the public purposes that are the goals of implementation of KRS 146.650 to 146.666 shall not be dependent on the existence and operation of the museum in a physical place.

(2) The board shall be administratively linked to the Education[~~, Arts, and Humanities~~] Cabinet.

(3) To accomplish the purposes of KRS 146.650 to 146.666, the board is authorized to:

(a) Acquire and hold property by deed, gift, devise, bequest, lease, exchange, purchase, or transfer;

(b) Plan for, develop, construct, and maintain buildings;

(c) Enter into agreements with state, federal, or local agencies;

(d) Employ and contract with individuals, corporations, or other business entities to accomplish the purposes of KRS 146.650 to 146.666;

(e) Accept and administer appropriations, gifts, grants, devises, and bequests of money, securities, or other items of value; and

(f) Carry out any other functions necessary to accomplish the purposes of KRS 146.650 to 146.666.

(4) To accomplish the purposes of KRS 146.650 to 146.666, the board may provide and administer grants to public and private entities.

Section 10. KRS 148.562 is amended to read as follows:

(1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:

(a) Secretary of the Tourism Development Cabinet, or his or her designee;

(b) Secretary of the Transportation Cabinet, or his or her designee;

(c) Secretary of the Education[~~, Arts, and Humanities~~] Cabinet, or his or her designee;

(d) Secretary of the Finance and Administration Cabinet, or his or her designee;

(e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and

(f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.

(2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;

(b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;

(c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and

(d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.

(3) The Governor shall appoint a chair from among the members of the board.

(4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

(5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 11. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to

the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

(a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

(b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 12. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years, except that of the members appointed after July 15, 1998, four (4) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; four (4) members appointed to fill the terms expiring July 1, 2000, shall serve until February 1, 2001; four (4) members appointed to fill the terms expiring July 1, 2001, shall serve until February 1, 2002; and members appointed to fill the terms expiring July 1, 2002, shall serve until February 1, 2003; and subsequent appointments shall be for four (4) year terms ending on February 1.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet as an independent administrative body.

(8) The council shall be headed by an executive director appointed by the secretary of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet upon recommendation of the council.

Section 13. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet;

(5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;

(6) Advise the Governor on matters pertaining to the arts;

(7) Adopt and promulgate regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9) Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the secretary of the ***Commerce***[~~Education, Arts, and Humanities~~]Cabinet and with the state purchasing provisions of KRS Chapters 45 and 45A;

(10) Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(11) Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

Section 14. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of fifteen (15) members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four (4) year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of eight (8) members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between regular meetings, and the designation of alternates for members with full voting authority.

(5) The corporation shall be attached to the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet for administrative purposes.

Section 15. KRS 153.620 is amended to read as follows:

(1) April 24 of each year is declared to be "Kentucky Writers' Day."

(2) The Education[~~, Arts, and Humanities~~] Cabinet may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

Section 16. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;

(e) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2. Families and Children;
3. Justice;
4. Natural Resources and Environmental Protection;
5. Transportation;
6.[~~Workforce Development;~~
~~7.~~] Education[~~, Arts, and Humanities~~];
7.[~~8.~~] Health Services;
8.[~~9.~~] Revenue; and
9.[~~10.~~] Labor;

(f) The Attorney General, or his designee;

(g) The commissioner of the Department of Veterans' Affairs or a designee;

(h) The executive director of the Kentucky Commission on Military Affairs or a designee;

(i) Kentucky's Civilian Aide to the Secretary of the United States Army;

(j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;

(k) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;
6. The One Hundredth Training Division;
7. Technology Park of Greater Louisville; and
8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and

(l) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.

(b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 17. KRS 157.910 is amended to read as follows:

(1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.

(3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.

(4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

(5) The council membership shall elect a chairperson to serve a one (1) year term.

Section 18. KRS 157.921 is amended to read as follows:

(1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:

(a) Three (3) representatives from postsecondary institutions;

(b) One (1) representative from the Council for Social Sciences;

(c) Six (6) representatives from elementary and secondary schools;

(d) One (1) representative of the Department of Education; and

(e) One (1) representative of the Council on Postsecondary Education.

(3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

(4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

Section 19. KRS 158.442 is amended to read as follows:

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety

programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with KRS 158.444;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner or a designee of the Department for Community Based Services;

(e) The secretary or a designee of the Education~~[, Arts, and Humanities]~~ Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

Section 20. KRS 158.443 is amended to read as follows:

(1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.

(2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.

(3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the office of the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet for administrative purposes.

(4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.

(5) Using a request-for-proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract. The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:

(a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and

(b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.

(6) The board of directors shall annually approve:

(a) A work plan for the center;

(b) A budget for the center;

(c) Operating policies as needed; and

(d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.

(7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.

(8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

Section 21. KRS 158.796 is amended to read as follows:

The Governor's Scholars Program is established in the Office of the Secretary of the Education~~[, Arts, and Humanities]~~ Cabinet and shall be headed by an executive director appointed by the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet with approval by the Governor. This program shall be responsible for implementing an enrichment program for academically-gifted students.

Section 22. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and

5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for Health Services appointed by the secretary;

(c) One (1) representative of the Cabinet for Families and Children appointed by the secretary;

(d) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet or his designee;

(e) The president of the Kentucky Association for the Deaf or his designee;

(f) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(g) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(f) of this section, appointed as follows:

1. One (1) parent of a hard of hearing or deaf child;

2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(g) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 23. KRS 171.312 is amended to read as follows:

In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: Research and Publications; Oral History and Educational Outreach; Administration; and Museums. The divisions shall be headed by a director appointed by the Executive Committee of the Kentucky Historical Society of the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet pursuant to KRS 171.311.

Section 24. KRS 171.3801 is amended to read as follows:

(1) There is established the Kentucky Heritage Council (hereinafter referred to as "the council") which shall perform the functions specified in KRS 171.381.

(2) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the preservation and protection of Kentucky's heritage. On or before September 15, 1982, the Governor shall appoint not more than four (4) members for a term of one (1) year, not more than four (4) members for a term of two (2) years, not more than four (4) members for a term of three (3) years, and not more than four (4) members for a term of four (4) years. Thereafter, the Governor shall make all appointments for a term of four (4) years.

(3) Council members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(5) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(6) The council shall be attached to the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes.

(7) The Heritage Council shall include a heritage division, whose duties shall include providing staff services needed by the Heritage Council in order to perform its duties under KRS 171.381, including but not limited to preserving and protecting buildings, sites and other landmarks associated with the archaeological, cultural, economic, military, national, political and social aspects of Kentucky's history.

(8) The heritage division shall be headed by a director appointed by the Governor from a list of three (3) nominees submitted by the Heritage Council; and the Heritage Council and the heritage division shall not be subject to reorganization.

Section 25. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into such contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

  (a) Development for the State Historic Preservation Program;

  (b) Direction of a comprehensive statewide survey of historic properties;

  (c) Nomination of historic properties to the National Register of Historic Places;

  (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

  (e) Cooperation in the integration of historic preservation planning with all levels of planning;

  (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

  (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

  (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

  (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

  (j) Development and operation of a program of public information and education concerning the preservation program;

  (k) Administration of the grants program within the state;

  (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and

  (m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 26. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education~~[, Arts, and Humanities]~~ Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management or his designee, the chief information officer or her or his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 27. KRS 171.800 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission is hereby established to perform the functions specified in KRS 171.805.

(2) The membership of the commission shall consist of three (3) ex officio members and seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

  (a) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, or the secretary's designee to serve ex officio;

  (b) The president of Kentucky State University, or the president's designee to serve ex officio;

(c) The director of the Kentucky Heritage Council, or the director's designee to serve ex officio;

(d) Four (4) members from institutions of higher education;

(e) One (1) member from the preservation community;

(f) One (1) member from the arts community; and

(g) Eleven (11) members from the public-at-large.

(3) Appointed members shall be appointed by the Governor and shall serve for terms of four (4) years. Any vacancies shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chairman and a vice chairman of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at the call of the chairman, but not less often than three times during each calendar year. A majority of the members appointed to the commission shall constitute a quorum.

(7) The commission shall be attached to the Kentucky Heritage Council for administrative purposes.

(8) The commission may accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities. Committees may be formed at the discretion of the chairman.

(9) The African-American Heritage Program is established as a branch within the Kentucky Heritage Division, whose responsibilities shall include providing staff services needed to perform its duties under KRS 171.805.

Section 28. KRS 171.805 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.

(2) The duties and functions of the commission shall be to:

(a) Advise the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet and agencies within the cabinet on matters relating to African-American heritage.

(b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.

(c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.

(d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.

(e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.

(f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with KRS 171.812.

Section 29. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations and, contingent on review by the council, present to the secretary of the Education~~[, Arts, and Humanities]~~ Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

Section 30. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

(a) Secretary of the Education~~[, Arts, and Humanities]~~ Cabinet, or designee;

(b) Secretary of the Tourism Development Cabinet, or designee;

(c) Secretary of the Transportation Cabinet, or designee;

(d) Director of the Kentucky Historical Society, or designee;

(e) State historic preservation officer of the Kentucky Heritage Council, or designee;

(f) Chair of the commission or designee;

(g) Director of the Underground Railroad Institute at Georgetown College, or designee;

(h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

(i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;

(j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and

(k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

(a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

(b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 31. KRS 171.816 is amended to read as follows:

The ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with KRS 171.805 and 171.810 to 171.814. The secretary of the ***Commerce***[~~Education, Arts, and Humanities~~] Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with KRS 171.812(5), and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 32. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;

(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;

(3) Advise the Transportation Cabinet on the scenic byways and highways program;

(4) Review and make recommendations on requests for highway signage from tourism-related entities;

(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;

(6) Monitor developments across the United States relating to billboards and official signs;

(7) Report to the secretary of the Transportation Cabinet and to the secretary of the Tourism Development Cabinet on issues of mutual interest to the cabinets;

(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Tourism Development Cabinet; and

(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Tourism Development Cabinet, the secretary of the Education[~~, Arts, and Humanities~~] Cabinet, and the secretary of the Executive Cabinet.

Section 33. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service

coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

(a) The coordination plan;
(b) The community partnership strategic plans;
(c) The increase in the efficiency and effectiveness of services;
(d) The boards and commissions eliminated;
(e) The boards and commissions identified as duplicative; and
(f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

(a) The Governor's designee;
(b) The secretary of the Cabinet for Families and Children;
(c) The secretary for the Cabinet for Health Services;
(d) The secretary of the Cabinet of Economic Development;
(e) The secretary of the Justice Cabinet;
(f) The secretary of ***the Education Cabinet***[~~Arts, Education and Humanities~~];
(g) The secretary of the Tourism Cabinet;
(h)[~~The secretary of the Cabinet for Workforce Development;~~
~~(i)~~] The commissioner of education;
(i)[~~(j)~~] The commissioner of juvenile justice;
(j)[~~(k)~~] The director of the Administrative Office of the Courts;
(k)[~~(l)~~] Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and
(l)[~~(m)~~] The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 34. KRS 200.700 is amended to read as follows:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its

functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the ***Division***[~~Office of the Governor, Office~~] of Early Childhood Development, for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

(a) The [~~executive~~]director of the ***Division***[~~Governor's Office~~] of Early Childhood Development, who shall serve as chair;

(b) The secretary of the Education[~~, Arts, and Humanities~~] Cabinet;

(c) The secretary of the Cabinet for Health Services;

(d) The secretary of the Cabinet for Families and Children;

(e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

(f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

(g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;

(h) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and

(i) One (1) early childhood development advocate.

(3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;

(b) The Kentucky Chamber of Commerce;

(c) The Kentucky League of Cities;

(d) The Kentucky Medical Association;

(e) The Louisville Urban League and Lexington Urban League;

(f) The Kentucky County Judge/Executives Association; and

(g) The [~~Kentucky~~]Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

1. One (1) year for two (2) of the initial terms;
2. Two (2) years for three (3) of the initial terms;
3. Three (3) years for two (2) of the initial terms; and
4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 35. KRS 200.705 is amended to read as follows:

The ***Division***[~~Office~~] of Early Childhood Development in the ***Department of Education***[~~Office of the Governor~~] shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;

(2) The Early Childhood Business Council;

(3) The Early Childhood Professional Development Council; and

(4) The Kentucky Early Intervention System Interagency Coordinating Council.

Section 36. KRS 200.709 is amended to read as follows:

(1) The Early Childhood Business Council is created and attached to the ***Division***[~~Office~~] of Early Childhood Development[~~, Office of the Governor,~~] for administrative purposes. The function of the council shall be to:

(a) Involve the corporate community, county judges/executive, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and

(b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:

1. Five (5) members shall be appointed for three (3) years;
2. Five (5) members shall be appointed for two (2) years; and
3. Five (5) members shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.

(c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

Section 37. KRS 200.711 is amended to read as follows:

(1) The Early Childhood Professional Development Council is created and attached to the ***Division***[~~Office~~] of Early Childhood Development[~~, Office of the Governor,~~] for administrative purposes. The Early Childhood Professional Development Council shall be composed of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall be appointed for a term of four (4) years and the council shall cease to exist four (4) years after July 14, 2000, unless reauthorized by the General Assembly. Members of the council shall have experience in early child care and education.

(2) The Early Childhood Professional Development Council, in collaboration with the Council on Postsecondary Education, shall:

(a) Work with existing entities to develop an early child care and education credential system to facilitate the attraction and retention of persons who provide early child-care and education services; and

(b) Work to develop a seamless system of professional development beginning with entry level employment in early child care and education and proceeding through a master's degree-level program.

(3) The Early Childhood Professional Development Council shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

(4) Members of the Early Childhood Professional Development Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

Section 38. KRS 200.703 is amended to read as follows:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education[~~, Arts, and Humanities~~] Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.

(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination.

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 39. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;
2. The A.G. Bell Association;
3. The Kentucky School for the Deaf Alumni Association; and
4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

(b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for Health Services, Department for Mental Health and Mental Retardation Services;
2. The ***Education*** Cabinet~~[for Workforce Development]~~, Department of Vocational Rehabilitation;
3. The Cabinet for Health Services, Office of Aging Services;
4. The Education~~[, Arts, and Humanities]~~ Cabinet, Commission on the Deaf and Hard of Hearing;
5. The Kentucky Registry of Interpreters for the Deaf; and
6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
2. Reports the number of deaf or hard-of-hearing persons served;
3. Identifies additional service needs for the deaf and hard-of-hearing; and
4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 40. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of

Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:
  (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
  (b) Tourism Development Cabinet, appointed by the secretary of the cabinet;
  (c) Education~~[, Arts, and Humanities]~~ Cabinet, appointed by the secretary of the cabinet;
  (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
  (e) University of Kentucky Cooperative Extension Service;
  (f) West Kentucky Corporation;
  (g) Kentucky Tourism Council;
  (h) Kentucky Farm Bureau;
  (i) Kentucky Association of Fairs and Horse Shows;
  (j) East Kentucky Corporation;
  (k) Southern and Eastern Kentucky Tourism Development Association;
  (l) Licking River Valley Resource Conservation and Development Council;
  (m) Buffalo Trace Covered Bridge Authority;
  (n) Kentucky Chamber of Commerce; and
  (o) Kentucky Council of Area Development Districts;

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 41. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for Health Services and the Education~~[, Arts, and Humanities]~~ Cabinet and the ***commissioner of education***~~[chief state school officer]~~ shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:
  (a) Identification and prompt and adequate interdisciplinary assessment;
  (b) Case management services; and
  (c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:
  (a) The number of institution residents on waiting lists for placement in the community;
  (b) The number of persons outside institutions on waiting lists for placement in the institution;
  (c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;
  (d) The number, type, nature, and cost of services necessary for placement to occur;
  (e) The status of compliance with the plan;
  (f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and
  (g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 42. KRS 347.050 is amended to read as follows:

The Cabinet for Health Services, the Education~~[, Arts, and Humanities]~~ Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral, and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely, and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives, and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies, and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 43. KRS 347.060 is amended to read as follows:

The Cabinet for Health Services, the Education~~[, Arts, and Humanities]~~ Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 44. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

2. Unemployment Insurance hearings conducted under authority of KRS Chapter 341.

(b) Cabinet for Health Services

1. Office of Certificate of Need
   a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
   b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children
1. Department for Community Based Services
   a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
2. Department for Disability Determination Services
   a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet
1. Department of State Police
   a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
2. Department of Corrections
   a. Parole Board hearings conducted under authority of KRS Chapter 439
   b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
   c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
3. Department of Juvenile Justice
   a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e) Labor Cabinet
1. Department of Workers' Claims
   a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet
1. Department for Surface Mining Reclamation and Enforcement
   a. Surface mining hearings conducted under authority of KRS Chapter 350
2. Department for Environmental Protection
   a. Wild River hearings conducted under authority of KRS Chapter 146
   b. Water resources hearings conducted under authority of KRS Chapter 151
   c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
   d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission
1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet
1. Board of Claims
   a. Liability hearings conducted under authority of KRS Chapter 44
2. Public Service Commission
   a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) ***Education*** Cabinet~~[for Workforce Development]~~
1. Department for Employment Services
   a. Unemployment Insurance ***Commission*** hearings conducted under authority of KRS Chapter 341

(j) Secretary of State
1. Registry of Election Finance
   a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k) State universities and colleges
1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 45. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the secretary of the ***Education*** Cabinet~~[for Workforce Development]~~ or the commissioner of the Department of State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 46. KRS 42.4592 is amended to read as follows:

(1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:

(a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.

(b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:

1. Percentage of employment in mining in relation to total employment in the respective county;
2. Percentage of earnings from mining in relation to total earnings in the respective county; and
3. Surplus labor rate.

(c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties. For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Department of Employment Services in the ***Education*** Cabinet~~[for Workforce Development]~~, as provided in paragraph (b) of this subsection.

(b) 1. Each year the Department for Employment Services shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Department of Employment Services may consult with knowledgeable individuals including, but not limited to, the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as

unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

Section 47. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the Department for the Blind contracts under KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of individuals with severe disabilities as described in KRS 45A.465.

(2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.

(4) The Department for the Blind within the ***Education*** Cabinet[~~for Workforce Development~~] and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.

(5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

Section 48. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the ***former*** Cabinet for Workforce Development as provided in

KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 49. KRS 96A.095 is amended to read as follows:

(1) The Transportation Cabinet may receive and accept from the Commonwealth or any of its agencies, including the Cabinet for Families and Children, the Cabinet for Health Services, and the ***Education*** Cabinet~~[for Workforce Development]~~, and from federal agencies appropriations or grants to promote, develop, and provide capital and operating subsidies for mass transit services and human service transportation delivery in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any of these funds, property, or things of value received by the Transportation Cabinet may be given directly to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;
(b) A city;
(c) A county;
(d) Other public mass transit providers;
(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
(f) An entity providing human service transportation delivery.

(2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any of these funds received available to any of the following entities in order to accomplish the purposes of this section:

(a) A local transit authority as created under this chapter;
(b) A city;
(c) A county;
(d) Other public mass transit providers;
(e) A nonprofit or public mass transit provider operating under 49 U.S.C. sec. 5310 or 5311; or
(f) An entity promoting or providing transit services such as safety, planning, research, coordination, or training activities.

In those cases where federal laws or regulations preclude the Transportation Cabinet from direct application for this type of federal funds, the cabinet is authorized and directed to provide assistance to any of the entities listed in this subsection as necessary to enable it to apply for and obtain this type of federal funds in order to accomplish the purposes of this section.

(3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.

(4) The Transportation Cabinet is authorized to contract, in accordance with the provisions of KRS Chapters 45A and 281, with a broker to provide human service transportation delivery within a specific delivery area.

Section 50. KRS 151B.020 is amended to read as follows:

(1) The ***Education*** Cabinet ~~[for Workforce Development]~~is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, ***units listed in Section 3 of this Act,*** and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) ~~[The Department for Adult Education and Literacy, which is created by KRS 151B.023;~~
~~(b)~~]The Department for Technical Education, which is created by KRS 151B.025;
(b)[~~(c)~~]The Department of Vocational Rehabilitation, which is created by KRS 151B.185;
(c)[~~(d)~~]The Department for the Blind established by KRS 163.470;
(d)[~~(e)~~]The Department for Employment Services, which is created by KRS 151B.280;
(e)[~~(f)~~] The Kentucky Technical Education Personnel Board established in KRS 151B.097;
(f)[~~(g)~~] The Foundation for Adult Education established by KRS 151B.130;
(g)[~~(h)~~] The Unemployment Insurance Commission established by KRS 341.110; and
(h)[~~(i)~~] The Department for Training and Reemployment created in KRS 151B.260.

(3) The executive officer of the cabinet shall be the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~]. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The Office of the Secretary of the ***Education*** Cabinet [~~for Workforce Development~~]shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The division shall be headed by a director appointed by the secretary of the ***Education*** Cabinet [~~for Workforce Development~~]pursuant to KRS 12.050.

(4) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~]and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~]may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~]shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 51. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the ***Education*** Cabinet[~~for Workforce Development~~]. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The commissioner shall be appointed to the unclassified service by the secretary of the ***Education*** Cabinet[~~for Workforce Development~~] with the approval of the Governor pursuant to KRS 12.050. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The commissioner of the Department for Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the department's jurisdiction.

(5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of the required plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall

be approved by the commissioner and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.

(10) The commissioner of the department shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the ***secretary of the Education*** Cabinet[~~for Workforce Development~~] for review and modification.

Section 52. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050 and assign duties as appropriate.

(2) There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created a Division of School Services within the Department for Technical Education. The Division of School Services shall be headed by a director appointed by the commissioner of the Department for Technical Education under KRS 12.050. The Division of School Services shall be composed of organizational entities as deemed appropriate by the ***secretary of the Education*** Cabinet[~~for Workforce Development~~] as set forth by administrative order.

(4) The commissioner shall appoint an ombudsman and specify his ***or her*** functions and duties.

(5) The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097, shall be attached to the department for administrative purposes.

Section 53. KRS 151B.035 is amended to read as follows:

(1) The commissioner of the Department for Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the commissioner of the Department for Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The commissioner of the Department for Technical Education shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the commissioner of the Department for Technical Education shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the commissioner and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the commissioner of the Department for Technical Education shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the commissioner of the Department for Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Technical Education.

(5) The commissioner for Technical Education shall be the appointing authority with respect to all personnel actions for the department. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the commissioner and shall be contingent upon confirmation by the commissioner and the board.

(6) The commissioner of the Department for Technical Education shall promulgate other administrative regulations to govern proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The commissioner of the Department for Technical Education shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the commissioner, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The commissioner of the Department for Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the Department for Technical Education~~[and the Department for Adult Education and Literacy]~~ attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Department for Technical Education and personnel in

the Department for Adult Education and Literacy.

(10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The commissioner of the Department for Technical Education shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 54. KRS 151B.097 is amended to read as follows:

(1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the Department for Technical Education under KRS Chapter 151B. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the Department for Technical Education for administrative purposes.

(2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the ***Education*** Cabinet[~~for Workforce Development~~], except no member shall be an employee within the Office of the Secretary or the Department for Technical Education. The remaining two (2) members shall be teachers employed by the Department for Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.

  (a) The Governor shall appoint the two (2) members elected by the teachers employed by the Department for Technical Education's Area Technology Centers and the three (3) members selected from employees of agencies within the ***Education*** Cabinet[~~for Workforce Development~~]. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

  (b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.

  (c) A chair shall be elected annually by members of the board.

(3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.

(4) The Department for Technical Education shall provide administrative, budgetary and support staff services for the board.

(5) Employees of the ***Education*** Cabinet[~~for Workforce Development~~] who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the commissioner of the Department for Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.

(6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

Section 55. KRS 151B.120 is amended to read as follows:

(1) The ***vice president for the Kentucky Adult Education System***[~~commissioner of the Department for Adult Education and Literacy~~] and the commissioner of the Department for Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the secretary of the ***Education***[~~Workforce Development~~] Cabinet

and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate commissioner. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) ***The vice president and***[~~Each~~] commissioner may approve authorization for his ***or her*** department to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 56. KRS 151B.125 is amended to read as follows:

(1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.

(a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the ***Kentucky Adult Education System's***[~~Department for Adult Education and Literacy~~] approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the Department for Adult Education and Literacy for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

(b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.

(2) The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.

Section 57. KRS 151B.127 is amended to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

(1) The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] in conjunction with the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:

(a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;

(b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;

(c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.

(2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars ($250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The ***system***[~~department~~], with the cooperation of the Council on Postsecondary Education, shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars ($1250).

Section 58. KRS 151B.130 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of

the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the ***Education*** Cabinet [~~for Workforce Development~~]with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the cabinet.

(4) The foundation shall be attached to the office of the secretary of the ***Education*** Cabinet [~~for Workforce Development~~]for administrative purposes.

Section 59. KRS 151B.155 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 151B.145, and the State Treasurer shall collect the money and pay it out upon the order of the ***secretary of the Education*** Cabinet[~~for Workforce Development~~].

Section 60. KRS 151B.185 is amended to read as follows:

(1) The Department of Vocational Rehabilitation is hereby created and shall be attached to the ***Education*** Cabinet[~~for Workforce Development~~]. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. The department shall be composed of Divisions of Administrative Management, Program Planning and Development, Program Services, and the Carl D. Perkins Comprehensive Rehabilitation Center. Each division shall be headed by a director appointed by the commissioner of the Department of Vocational Rehabilitation, and shall be composed of organizational entities as deemed appropriate by the commissioner of the Department of Vocational Rehabilitation, as set forth by administrative order.

(2) The Department of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.

(3) The department shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the department shall be the commissioner of the Department of Vocational Rehabilitation. The commissioner shall be appointed by the ***secretary of the Education*** Cabinet[~~for Workforce Development~~]. The commissioner shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department.

(5) Except as otherwise provided, the department shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The office of the ***secretary of the Education*** Cabinet[~~for Workforce Development~~] is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) Employees under the jurisdiction of the Department of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 61. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the ***Secretary of the Education*** Cabinet[~~for Workforce Development~~].

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to, the following:

(a) To coordinate and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the

Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The ***secretary of the Education*** Cabinet~~[for Workforce Development]~~, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, ***Education*** Cabinet~~[for Workforce Development]~~, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The commissioner of the Department for Technical Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***vice president of the Kentucky Adult Education System***~~[commissioner of the Department for Adult Education and Literacy]~~;

(g) The commissioner of the Department for the Blind;

(h) The two (2) chancellors of the Kentucky Community and Technical College System;

(i) A representative from the Kentucky Council on Postsecondary Education;

(j) A representative from the Kentucky Chamber of Commerce; and

(k) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the ***Education*** Cabinet~~[for Workforce Development]~~.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 62. KRS 151B.225 is amended to read as follows:

(1) There is hereby created a Client Assistance Program which is assigned for administrative purposes to the Office of Budget and Administrative Services within the office of the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~.

(2) The Client Assistance Program shall pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the cabinet, on behalf of the Client Assistance Program, may contract with other state agencies to obtain necessary legal or other professional services.

(3) The Office of Budget and Administrative Services shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

Section 63. KRS 151B.230 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The

purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.

(3) The foundation shall be governed by a board of trustees to be appointed by the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~ based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the Department for Technical Education.

(4) The foundation shall be attached to the office of the ***secretary of the Education*** Cabinet~~[for Workforce Development]~~ for administrative purposes.

(5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 64. KRS 151B.250 is amended to read as follows:

(1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.

(2) The Department for Technical Education within the ***Education*** Cabinet~~[for Workforce Development]~~ shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:

(a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;

(b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;

(c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;

(d) Applied learning experiences;

(e) Integration of academic and occupational education;

(f) Performance assessment;

(g) Actual or simulated learning at the school or the worksite;

(h) Curriculum based on skill standards representing all aspects of an industry;

(i) Secondary to postsecondary articulation;

(j) Postsecondary articulation; and

(k) Professional development opportunities for all partners.

(3) The Department for Technical Education may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

(4) The Department for Technical Education shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 65. KRS 151B.260 is amended to read as follows:

The Department for Training and Reemployment is hereby created and established within the ***Education*** Cabinet~~[for Workforce Development]~~. The Department for Training and Reemployment shall be headed by a commissioner who shall be appointed by the Governor under KRS 12.040.

Section 66. KRS 151B.280 is amended to read as follows:

(1) The Department for Employment Services is created and shall be attached to the ***Education*** Cabinet~~[for Workforce Development]~~. The Department for Employment Services shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet.~~[In addition, the department shall develop and operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.]~~

(2) The Department for Employment Services shall be headed by a commissioner appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The commissioner for employment services shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The commissioner of employment services shall exercise authority over the Department for Employment Services under the direction of the secretary, and shall fulfill only the responsibilities delegated by the secretary.

(3) (a) The secretary of the ***Education*** Cabinet[~~for Workforce Development~~] shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the Department for Employment Services which directly or indirectly identify a client or former client and which insure that these records are not disclosed to or by any person except and insofar as:

1. The person identified shall give his consent; or
2. Disclosure may be permitted under state or federal law.

(b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the Department for Employment Services may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The Department for Employment Services may share information concerning a client or applicant with any private or quasi-private agency if:

1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and
2. The agency has a direct, tangible, and legitimate interest in the individual.

Section 67. KRS 151B.285 is amended to read as follows:

The ***Education*** Cabinet[~~for Workforce Development~~] shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the ***Education*** Cabinet[~~for Workforce Development~~]. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state. in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The ***Education*** Cabinet[~~for Workforce Development~~] is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

Section 68. KRS 151B.410 is repealed, reenacted as a section of KRS Chapter 164, and amended to read as follows:

(1) The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical colleges, community colleges, regional universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.

(2) Services included as part of the adult education and literacy system shall include, but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.

(3) In administering an adult education and literacy system, the ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] shall:

(a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including high school equivalency diploma preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;

(c) Assist adult educators to meet professional standards;

(d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;

(e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(f) Require and monitor compliance with the department's administrative regulations and policies; and

(g) Develop and implement performance measures and benchmarks.

Section 69. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

(1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life.

(2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation.

(3) "Cabinet" means the ***Education*** Cabinet ~~[for Workforce Development]~~.

(4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455.

(5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470.

(6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund.

(7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

Section 70. KRS 151B.455 is amended to read as follows:

(1) The Kentucky Assistive Technology Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.

(2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:

(a) The secretary of the ***Education*** Cabinet ~~[for Workforce Development]~~ or the secretary's designated representative;

(b) One (1) attorney with lending expertise;

(c) One (1) representative of a financial lending institution; and

(d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.

(3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.

(4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.

(5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.

(6) The Governor may remove any board member in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 71. KRS 151B.460 is amended to read as follows:

(1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its membership, and a chair shall be elected annually thereafter.

(2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.

(3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.

(4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the

availability of funding.

(5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.

(6) The ***Education*** Cabinet ~~[for Workforce Development]~~ shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

Section 72. KRS 151B.470 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.

(2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.

(3) The fund shall be under the administrative control of the board.

(4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the ***Education*** Cabinet ~~[for Workforce Development]~~ to be expended for programs and services for Kentuckians with disabilities.

Section 73. KRS 154.10-050 is amended to read as follows:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~.

Section 74. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for

Economic Development, the secretary of the Labor Cabinet, the president of the Council on Postsecondary Education, the secretary of the ***Education*** Cabinet~~[for Workforce Development]~~ and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 75. KRS 154.12-207 is amended to read as follows:

(1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars ($200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.

(3) Approval of the grant-in-aid application by the board shall be based upon the following criteria:

(a) The program must be within the scope of KRS 154.12-204 to 154.12-208;

(b) Participants in the program must be limited to a Kentucky resident, as the term is defined in KRS 141.010;

(c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;

(d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;

(e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance, and financial support which, together with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid;

(f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation; and

(g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the

Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~.

Section 76. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;

(2) "Approved costs" means:

(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;

(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and

(f) All other costs of a nature comparable to those described in this subsection;

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;

(6) "Employee" means any person:

(a) Who is currently a permanent full-time employee of the qualified company;

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

(c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

(d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet~~[for Workforce Development]~~.

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the

employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 77. KRS 154.20-150 is amended to read as follows:

(1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the Kentucky Department for Employment Services, ***Education*** Cabinet[~~for Workforce Development~~], and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

Section 78. KRS 154.20-170 is amended to read as follows:

(1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

(2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet[~~for Workforce Development~~].

Section 79. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky ***Education*** Cabinet~~[for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon

satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 80. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the ***Education*** Cabinet [~~for Workforce Development~~], determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:

(a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Department for Employment Services in the ***Education*** Cabinet [~~for Workforce Development~~];

(b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and

(c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

(5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

Section 81. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and

specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the ***Education Cabinet***[~~Kentucky Cabinet for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means:

(a) A service or technology activity conducted by an approved company; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13) "Local government" means a city, county, or urban-county government;

(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(16) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(17) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

(19) "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;

(20) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy that includes but is not limited to property taxes, heating and air conditioning, electricity, sewer, and insurance;

(21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22) “Service or technology” means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the “Standard Industrial Classification Manual,” as revised by the United States Office of Management and Budget from time to time, or any successor publication;

(23) “Start-up costs” mean the cost of furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.23-040;

(24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 82. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the ***Education*** Cabinet ~~[for Workforce Development]~~:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not

be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 83. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" means the following:
  (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
  (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
    1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
      a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
      b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
    2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
  (e) A grantor and a fiduciary of any trust;
  (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  (g) A fiduciary of a trust and a beneficiary of that trust;
  (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
  (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  (j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
    1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
  (l) A corporation and a limited liability company if the same persons own:
    1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the ***Education***~~[Kentucky]~~ Cabinet~~[for Workforce Development]~~ collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(19) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(20) "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(21) "Start-up costs" means the acquisition cost of furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, relocation costs, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 84. KRS 154.26-080 is amended to read as follows:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and the retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing or coal mining and processing facility, permanently lay off its employees, and cease operations.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.

(5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.

(6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the ***Education*** Cabinet [~~for Workforce Development~~], and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.

(7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), or subsection (11) of this section.

(8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.

(9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.

(10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.

(11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6)

of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(13) After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 85. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" means the following:

  (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

  (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

  (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

  (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

    1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

      a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

      b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

    2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

  (e) A grantor and a fiduciary of any trust;

  (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

  (g) A fiduciary of a trust and a beneficiary of that trust;

  (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

  (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

  (j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

  (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

    1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

    2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

  (l) A corporation and a limited liability company if the same persons own:

    1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

    2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

  (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas. electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the ***Education***[~~Kentucky~~] Cabinet[~~for Workforce Development~~] collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the

Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 86. KRS 154.45-120 is amended to read as follows:

The ***Education*** Cabinet[~~for Workforce Development~~] shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The ***Education*** Cabinet[~~for Workforce Development~~] shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 87. KRS 154.47-015 is amended to read as follows:

(1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:

  (a) Disseminating information;

  (b) Providing services;

  (c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and

  (d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.

(2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the ***Education*** Cabinet[~~for Workforce Development~~]; and four (4) members representing the following universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.

(3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:

  (a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:

    1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;

    2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;

3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;

4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and

5. One (1) from a list of three (3) nominees from private business submitted in writing by the Kentucky Economic Development Partnership.

(b) The Kentucky Forest Products Council, the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~], and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.

(c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.

(d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.

(4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the ***Education*** Cabinet[~~for Workforce Development~~], all appointments shall have a term of four (4) years. The term for the person appointed from the ***Education*** Cabinet[~~for Workforce Development~~] shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

Section 88. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives:

(a) Department of Education;

(b) Department for Employment Services of the ***Education*** Cabinet[~~ for Workforce Development~~];

(c) Department for Health Services of the Cabinet for Human Resources;

(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;

(e) Department for Social Services of the Cabinet for Human Resources;

(f) Department for Social Insurance of the Cabinet for Human Resources;

(g) Justice Cabinet;

(h) Governor's Office;

(i) Office of the Secretary, ***Education*** Cabinet[~~for Workforce Development~~];

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments;

(p) Local community action agencies; and

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the

development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(8) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the ***Kentucky Board of***[~~State Board for Elementary and Secondary~~] Education, the Governor, and the Legislative Research Commission.

(9) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 89. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:

(a) The chairman of the Council on Postsecondary Education;

(b) The president of the Council on Postsecondary Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The secretary of the ***Education*** Cabinet [~~for Workforce Development~~];

(f) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and

(g) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple

majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 90. KRS 156.749 is amended to read as follows:

(1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.

(2) All meetings will be held in Frankfort, Kentucky, upon the call of the chairman or a majority vote of the membership. In the initial year, the secretary of the ***Education*** Cabinet[~~for Workforce Development~~] shall serve as chairperson.

Section 91. KRS 158.360 is amended to read as follows:

(1) The ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department.

(2) The programs shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of under education and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services.

Section 92. KRS 158.794 is amended to read as follows:

(1) The Early Reading Incentive Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the early reading incentive grant fund created by KRS 158.792. The committee shall be composed of fifteen (15) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, the ***vice president of the Kentucky Adult Education System***[~~commissioner of the Department for Adult Education and Literacy~~] or the ***vice president's***[~~commissioner's~~] designee, and the following members, to be appointed by the Governor:

(a) Two (2) primary program teachers with a specialty or background in reading and literacy;

(b) Eight (8) university professors with a specialty or background in reading and literacy representing each of the public universities; and

(c) Two (2) individuals from the state at large with background and interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, four (4) members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs in schools throughout the state regarding reading and literacy programs;

(b) Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;

(c) Develop a process for monitoring grants that are awarded; and

(d) Recommend approval of grant applications based upon criteria established by the committee.

Section 93. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications

for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the ***vice president of the Kentucky Adult Education System***[~~commissioner of the Department for Adult Education and Literacy~~].

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 94. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been

retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) ***Employees of the Council on Postsecondary Education who were employees of*** the Department for Adult Education and Literacy ***and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600***[~~, except that the commissioner shall not be a member~~];

(h) The Department for Technical Education, except that the commissioner shall not be a member;

(i) The Department of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the ***former*** Cabinet for Workforce Development who ***were***[~~are~~] transferred to the Kentucky Community and Technical College System***, effective July 1, 1998,*** and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the ***former*** Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the ***former*** Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the ***former*** Cabinet for Workforce Development and the commissioners of the ***former*** Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement

system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261)

days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the twelve (12) months immediately preceding the member's effective retirement date, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 95. KRS 163.470 is amended to read as follows:

(1) There is created within the ***Education*** Cabinet [~~for Workforce Development~~]the Department for the Blind.

(2) The commissioner shall be appointed by the Governor upon the recommendation of the secretary of the ***Education*** Cabinet [~~for Workforce Development~~]to whom he ***or she*** shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the ***Education*** Cabinet [~~for Workforce Development~~]is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the commissioner.

(4) (a) The Kentucky Department for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.

(b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the Department for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.

2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(c) Each member of the Department for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.

(5) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(6) At the close of each biennium, the department shall prepare a financial report and present it to the secretary of the ***Education*** Cabinet[~~ for Workforce Development~~] and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(7) The department shall coordinate its functions with other appropriate public and private agencies.

(8) The department shall perform all other duties as required of it by law.

(9) The commissioner shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.

(10) There shall be created under the authority of the department, to be directed by the commissioner, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(11) There shall be established under the authority of the department to be directed by the commissioner, a Division of Business Enterprises. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(12) There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department, at all times, shall be authorized to provide industrial evaluation, training, and employment.

(13) The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office, and other staff services as may be deemed necessary.

(14) The provisions of any other statute notwithstanding, the commissioner is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

SECTION 96. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Adult Education System is created to carry out the statewide adult education mission. The system shall implement a twenty (20) year state strategy to reduce the number of adults who are at the lowest levels of literacy and most in need of adult education and literacy services. The system shall have responsibility for all functions related to adult education and literacy.

(2) The Kentucky Adult Education System is part of the Council on Postsecondary Education and shall be organized in a manner as directed by the president of the Council on Postsecondary Education. The system shall be headed by a vice president appointed by the president of the Council on Postsecondary Education.

(3) The Kentucky Adult Education System, Council on Postsecondary Education, shall be the agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations.

Section 97. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);

(4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;

(7) "Council" means the Council on Postsecondary Education created in KRS 164.011;

(8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(9) "Goals" means the six (6) goals specified in KRS 164.003(2);

(10) "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;

(11) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(12) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the ***Education*** Cabinet[~~ for Workforce Development~~]; and

(b) The University of Kentucky Community College System, with the exception of the Lexington Community College.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(13) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(14) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(15) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(16) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(17) "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;

(18) "Public" means operated with state support;

(19) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;

(20) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(21) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(22) "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and

(23) "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

Section 98. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~]. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

(14) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs

within that general program;

(16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;

(23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(25) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include but not be limited to the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(27) Select and appoint a president of the council under KRS 164.013;

(28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;

(32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or

locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;

(34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~], under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the ***Kentucky Adult Education System***[~~Department for Adult Education and Literacy~~] and with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under KRS 164.041; and

(35) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 99. KRS 164.0203 is amended to read as follows:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education and adult education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education and adult education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions and providers that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school

districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.

Section 100. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading models;

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;

(f) Establishing a demonstration and training site for early literacy located at each of the public universities; and

(g) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.

(3) With the advice of the ***Kentucky Adult Education System***~~[Department of Adult Education and Literacy in the Cabinet for Workforce Development]~~ and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location and monitor the progress of the center.

Section 101. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ and the Collaborative Center for Literacy Development: Early Childhood through Adulthood, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

Section 102. KRS 164.041 is amended to read as follows:

(1) There is created in the Council on Postsecondary Education, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. Moneys accumulated in this fund on July 14, 2000, shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.

(2) The purpose of the adult education and literacy initiative fund shall be to support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities.

(3) The council, in collaboration with the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under KRS 164.0207 shall evaluate the reading and literacy components of model programs funded under this paragraph.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ and as compatible with funds provided under Title II of the Federal Workforce Investment Act;
2. A statewide competency-based certification for transferable skills in the workplace; and
3. A statewide public information and marketing campaign.

Section 103. KRS 164.5805 is amended to read as follows:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the ***former*** Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System.

(a) The staff positions in the Department for Technical Education and the ***former*** Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the ***former*** Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;
2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;
3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
6. Employees shall be provided life insurance coverage and optional insurance or investment programs.

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

Section 104. KRS 314.452 is amended to read as follows:

(1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing Workforce Foundation.

(2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.

(3) The foundation shall be governed by a board, the membership of which shall consist of the following:

- (a) President, or a designee, of the Kentucky Community and Technical College System;
- (b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;
- (c) President, or a designee, of the Council on Postsecondary Education;
- (d) Secretary, or a designee, of the ***Education***[~~Kentucky~~] Cabinet[~~ for Workforce Development~~];
- (e) Executive Director, or a designee, of the Kentucky Board of Nursing;
- (f) President, or a designee, of the Kentucky Nurses Association;
- (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;
- (h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;
- (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and
- (j) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.

(4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.

(5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.

(6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

(7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.

(8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of KRS 314.450 to 314.464.

(9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

Section 105. KRS 314.464 is amended to read as follows:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the ***Education*** Cabinet[~~ for Workforce Development~~], and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

Section 106. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Cabinet" means the ***Finance and Administration*** Cabinet[~~ for Workforce Development~~].

(2) "Secretary" means the secretary ***of the Finance and Administration Cabinet***[~~ for workforce development~~] or his ***or her*** duly authorized representative.

(3) "Commission" means the unemployment insurance commission.

Section 107. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) Except in so far as the ***Finance and Administration*** Cabinet [~~ for Workforce Development ~~]by regulation prescribes the equivalent thereof to meet particular conditions:

- (a) "Calendar year" means a year beginning on January 1; and
- (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;

(2) "Week" means such period of seven (7) consecutive calendar days as the ***Finance and Administration*** Cabinet[~~ for Workforce Development~~] by regulation prescribes; and

(3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by ***Finance and Administration*** Cabinet[~~ for Workforce Development~~] ***administrative*** regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

Section 108. KRS 341.110 is amended to read as follows:

(1) In the ***Education*** Cabinet [~~ for Workforce Development ~~]there shall be an Unemployment Insurance Commission composed of the secretary ***of Education*** or his ***or her*** duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.

(2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.

(3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.

(4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the members representing labor and employers shall be $12,000 each per annum.

Section 109. KRS 341.125 is amended to read as follows:

(1) It shall be the duty of the secretary ***of the Finance and Administration Cabinet and the secretary of the Education Cabinet*** to administer this chapter; and ***they***[~~he~~] shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action, not specifically assigned to the cabinet[~~ for Workforce Development~~], as ***they deem***[~~he deems~~] necessary for the proper administration of this chapter.

(2) The ***secretaries are***[~~secretary is~~] authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation and prescribe duties and powers of such officers and employees as may be necessary in the performance of ***their***[~~his~~] duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The ***secretaries***[~~secretary~~] shall not employ or pay any person who is an officer or committee member of any political party organization. The ***secretaries***[~~secretary~~] may delegate to any such person so appointed such power and authority as ***they deem***[~~he deems~~] reasonable and proper for the effective administration of this chapter.

(3) The salary and expenses of the ***secretaries and their staffs***[~~secretary and his staff~~] shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the ***cabinets***[~~cabinet~~].

(4) The ***secretaries***[~~secretary~~] shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as ***they*** [~~he~~] deems proper.

(5) In the administration of this chapter the ***secretaries***[~~secretary~~] shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

Section 110. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary ***of the Finance and Administration Cabinet***[~~ for workforce development~~] considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his ***or her*** authorized representatives at any reasonable time and as often as necessary.

(2) The secretary[~~ for workforce development~~] may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary[~~ for workforce development~~] considers necessary to the effective administration of this chapter.

(3) Information obtained from an employing unit or individual and other records made by the cabinet ***or commission*** in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as

provided below:

(a) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released.

(b) A claimant or employing unit or his legal representative shall be provided upon request information or records maintained by the cabinet in the administration of his claim, his reserve account, his reimbursing employer account, or any proceeding under this chapter to which he is a party.

(c) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit.

(d) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

(4) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

Section 111. KRS 341.200 is amended to read as follows:

(1) In the discharge of the duties imposed by this chapter members of the commission, the secretary or any duly authorized representative thereof, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of this chapter. Such subpoena shall be served in the same manner as a subpoena issued out of a Circuit Court, and the sheriff shall receive the same fee as provided by law for like service in civil actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the rates prescribed by KRS 421.015 for each day their attendance is actually required at a hearing.

(2) The secretary, ***or the commission,*** or any ***of their*** authorized ***representatives***~~[representative of the secretary]~~, shall have the power, in any and all counties of this Commonwealth, now granted by law to sheriffs within their respective jurisdictions, to execute and make due return of all notices, summonses, including summonses duces tecum, subpoenas, and executions in respect to all court actions instituted to enforce the provisions of this chapter. ~~[Neither]~~The secretary***, a member of the commission, or any of their authorized representatives***~~[nor his authorized representative]~~ shall ***not*** be deemed to be an interested party in the action by reason of his official or representative capacity.

Section 112. KRS 341.230 is amended to read as follows:

The ***secretaries***~~[secretary]~~ may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the ***Finance and Administration Cabinet and the Education*** Cabinet ~~[for Workforce Development]~~or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the ***secretaries***~~[secretary]~~. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

Section 113. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary ***of Finance and Administration and the secretary of Education are***~~[is]~~ authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the cabinet by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

Section 114. KRS 341.275 is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ and "secretary" shall mean the secretary ***of finance and administration***~~[for workforce development]~~.

(2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.

(a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.

(b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.

(d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.

(e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).

(3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each calendar quarter, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.

(d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the ***commission***[~~cabinet~~], setting forth the grounds for such appeal. Proceedings on appeal to the ***commission***[~~cabinet~~] from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the ***commission***[~~cabinet~~] shall be subject to review under the provisions of KRS 341.460(1).

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.

(4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.

(b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.

(5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.

(6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

Section 115. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work which was concurrent with his most recent work, or for leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home, or for otherwise accepting work which is a bona fide job offer with a reasonable expectation of continued employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with

the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 116. KRS 341.420 is amended to read as follows:

(1) The secretary shall appoint one (1) or more impartial referees according to KRS 341.125 to hear and decide appealed claims.

(2) A party to a determination may file an appeal to a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the secretary, or a decision of a referee ***or the commission***, the secretary or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

(5) No finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation under this chapter may be conclusive or binding in any separate or subsequent action or proceeding in another forum, except proceedings under this chapter, regardless of whether the prior action was between the same or related parties or involved the same facts.

Section 117. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of the parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the ***cabinet***[~~department~~] or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 118. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the ***Finance and Administration Cabinet***[~~Department for Employment Services, Cabinet for Workforce Development~~] prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his ***or her*** representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself ***or herself*** or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 119. KRS 341.530 is amended to read as follows:

(1) The ***cabinet***[~~department~~] shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the ***cabinet***[~~department~~], in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 120. KRS 341.990 is amended to read as follows:

(1) Any employee of any state department who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be

guilty of a Class A misdemeanor.

(4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the ***cabinet***~~[department]~~.

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.

Section 121. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, ***Finance and Administration*** Cabinet~~[for Workforce Development]~~. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 122. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Revenue Cabinet shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section,

shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The ***Finance and Administration Cabinet***~~[Department for Employment Services, Cabinet for Workforce Development]~~ is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 123. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the commissioner by the ***Finance and Administration*** Cabinet~~[for Workforce Development]~~ in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140, 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the commissioner to be in effect in the calendar year of 1994. If the average weekly wage calculated by the commissioner is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

Section 124. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon

application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation***,***[~~ and~~] the Department for Employment Services of the ***Education***[~~Kentucky~~] Cabinet***, and the Finance and Administration Cabinet***[~~ for Workforce Development~~]. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 125. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the commissioner by the ***Finance and Administration*** Cabinet[~~ for Workforce Development~~] in a manner prescribed by the commissioner by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by $1 or more, or the maximum weekly income benefits for total disability or for death by $2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

Section 126. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Department for Employment Services, ***Education*** Cabinet***,*** ~~[for Workforce Development]~~which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be paid directly to the jailer and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court shall not direct that any payment authorized under this section be paid through the circuit clerk.

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 127. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy]~~ within the ***Council on Postsecondary Education***~~[Cabinet for Workforce Development]~~ which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The ***Kentucky Adult Education System***~~[Department for Adult Education and Literacy within the Cabinet for Workforce Development]~~ shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 128. KRS 12.027 is amended to read as follows:

When the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, ***an officer, organizational unit, administrative body or entity as described in Section 130 of this Act,*** or another elected official effects a temporary reorganization under ***Section 129 of this Act***~~[KRS 12.028]~~, the Governor, the Kentucky Economic Development Partnership, ***an officer, organizational unit, administrative body or entity described in Section 130 of this Act,*** or the other official shall do so by executive order or, in the case of the Kentucky Economic Development Partnership, by resolution filed with the Legislative Research Commission and the Secretary of State, which shall clearly designate the order or resolution as one relating to reorganization. The Secretary of State shall keep a copy of all executive orders relating to organization.

Section 129. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to

promote greater economy, efficiency and improved administration, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, ***an officer, organizational unit, administrative body or entity as described in Section 130 of this Act,*** and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, ***an officer, organizational unit, administrative body or entity as described in Section 130 of this Act,*** and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint legislative committee with appropriate jurisdiction. The Governor ***shall***[~~may~~] not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by the Kentucky Economic Development Partnership as created in KRS 154.10-010,[~~ or~~] another elected state executive officer***, or an officer, organizational unit, administrative body or entity as described in Section 130 of this Act,*** unless requested in writing by that officer***, unit, body, or entity***. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that ***the officer***[~~he~~] heads.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the presiding co-chairman of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within sixty (60) days after it is filed with the Legislative Research Commission. If the committee does not report on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.

(5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, ***an officer, organizational unit, administrative body or entity as described in Section 130 of this Act,*** or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, ***an officer, organizational unit, administrative body or entity as described in Section 130 of this Act,*** and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.

(6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

SECTION 130. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Any provision of law to the contrary notwithstanding, the Governor shall not effect a temporary reorganization plan

which would change, abolish, reconstitute, or alter in any way the organizational structure, authority, or autonomy of any of the following officers, organizational units, administrative bodies, or entities:

(a) The School Curriculum, Assessment, and Accountability Council, established under KRS 158.6452;

(b) The Kentucky Board of Education, established under KRS 156.029;

(c) The commissioner of education, established under KRS 156.148;

(d) The Department of Education, established under KRS 156.010;

(e) The Education Professional Standards Board, established under KRS 161.028;

(f) The executive director of the Education Professional Standards Board, established under KRS 161.017;

(g) The Council on Postsecondary Education, established under KRS 164.011; and

(h) The president of the Council on Postsecondary Education, established under KRS 164.013.

(2) The Governor shall give effect to the specific terms and conditions of a temporary reorganization plan when requested in writing and in compliance with subsection (3) of Section 129 of this Act by the following officer on behalf of an organizational unit, administrative body, or entity:

(a) The commissioner of education, on behalf of the Department of Education or the School Curriculum, Assessment, and Accountability Council;

(b) The executive director of the Education and Professional Standards Board on behalf of the board; and

(c) The president of the Council on Postsecondary Education on behalf of the council.

Section 131. The following KRS sections are repealed:

12.401 Office of Early Childhood Development.

151B.023 Department for Adult Education and Literacy.

156.120 Superintendent of Public Instruction -- Location of office -- Traveling expenses -- Salary.

156.666 Council for Education Technology -- Membership -- Duties.

Section 132. (1) The Tax Status and Accounting Branch, the Technical Services Branch, the Tax Audit and Enforcement Branch, the Benefits Branch and the Appeals Branch residing in the Department for Employment Services, Division of Unemployment Insurance, and the Division of Unemployment Insurance in its entirety, including but not limited to the Director's Office, shall be transferred to the Finance and Administration Cabinet. Notwithstanding any other provision of law, all of the functions, responsibilities, duties, records, files, equipment, funds, and positions of the division and the aforementioned branches are hereby assigned and transferred to the Finance and Administration Cabinet.

(2) The Education Cabinet, the Department of Personnel, the Office of the State Budget Director and the Finance and Administration Cabinet shall take any and all necessary action to effectuate this transfer. Upon agreement between the secretary of the Education Cabinet and the secretary of the Finance and Administration Cabinet, any and all additional employees of the Education Cabinet and their corresponding duties, files, and equipment shall be transferred from the Education Cabinet to the Finance and Administration Cabinet for the purpose of executing and fulfilling the functions, duties, responsibilities and mission of the organizational units of the Division of Unemployment Insurance hereby transferred to the Finance and Administration Cabinet from the Education Cabinet.

Section 133. Any provisions of law to the contrary notwithstanding, the General Assembly confirms the Governor's Executive Order 2003-600 dated June 16, 2003, Executive Order 2003-712 dated July 7, 2003, and Executive Order 2003-064 dated December 23, 2003, as it relates to the Education Cabinet and Executive Order 2004-029 dated January 6, 2004, to the extent it is not otherwise confirmed by this Act.

Section 134. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends or repeals the administrative regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the administrative regulations that require any changes to the regulations compiler.

Section 135. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 136. Whereas it is important that selected provisions of this Act be implemented immediately upon adjournment of the regular session of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Banking and Insurance reported **HB 509, HB 567, HB 578, HB 579, HB 582, HB 592, HB 633, SB 135, SB 177,** and **SB 181** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 509, AN ACT relating to the Kentucky Health Care Improvement Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17B-003 is amended to read as follows:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of fifteen (15) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with KRS 304.17B-001 to 304.17B-031 and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

(a) The commissioner of the Department of Insurance, ***or the commissioner's designated representative,*** who shall serve as chair;

(b) The secretary of the Cabinet for Health Services, ***or the secretary's designated representative,*** who shall serve as vice chair;

(c) Two (2) nonvoting members serving ex officio from the House of Representatives, one (1) of whom shall be appointed by the Speaker of the House and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;

(d) Two (2) nonvoting members serving ex officio from the Senate, one (1) of whom shall be appointed by the President of the Senate and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;

(e) The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine***, or their designated representatives***;

(f) The commissioner of the Department for Public Health***, or the commissioner's designated representative***;

(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

(h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of whom shall be male and at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen-at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen-at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall[~~ establish priorities for programs and the expenditure of funds,~~] establish procedures for accountability, ***including the review of expenditures,*** and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Department of Insurance for administrative purposes and shall establish advisory boards it deems appropriate, which shall consist of health insurance consumers, health care providers, and insurance company representatives, to assist with oversight of fund expenditures.

(5) Grants and funds obtained under KRS 304.17B-001 to 304.17B-031 shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under KRS 304.17B-001 to 304.17B-031. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 304.17B-001 to 304.17B-031, including, but not limited to, retaining the staff it deems necessary for the proper performance of its duties.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

HB 567, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) If moneys held by a life insurance company become due and payable according to the records of the corporation under any life insurance contract which has matured or terminated, and the owner of the policy has within the preceding three (3) years not assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or corresponded in writing with the life insurance corporation concerning the policy; or

(b) If the records of the corporation under any life insurance contract do not indicate moneys held by a life insurance company are due and payable, and the owner of the life insurance policy has within any five (5) year period not assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or corresponded in writing with the life insurance corporation concerning the policy,

the insurer shall contact the owner of the policy. If the insurer is not able to contact the owner, the insurer shall submit a written statement to the department that the insurer has not been able to contact the owner of the policy as required by this section.

(2) The statement shall be on a form prescribed by the commissioner by promulgation of an administrative regulation and shall include the name of the insured, date of birth, last known address, amount of insurance, policy number, and date of expiration or maturity of the policy.

(3) The department shall maintain the statements and at least annually compare the names of insureds on the statements to certificates of death filed with the Commonwealth. If the name of an insured appears in state records of persons who died in the Commonwealth, the department shall send written notice to the insurer. The insurer shall within thirty (30) days of receipt of such notice from the department send written notice to the beneficiary designated on the policy.

HB 578, AN ACT relating to insurable interests.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-040 is amended to read as follows:

(1) An employer or the employer's trustee may procure and effect an insurance contract upon the life or body of an employee for the purpose of funding a pension or other benefit plan established for the employee of the employer. Except as provided in subsection (4) of this section, no employer, nor employer's trustee, shall procure or cause to be procured any insurance contract on the life or body of an employee unless the benefits under the contract are payable to and utilized by an employee pension or other benefit plans. Nothing in this subsection shall be construed to require the employer or the employer's trustee to use or designate the benefits of any employee insurance contract for the specific benefit of the estate of the particular insured on whose life or body the insurance contract producing the benefits was procured.

(2) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. No person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under the contract are payable to the individual insured or his personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the individual insured.

(3) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover the benefits from the person so receiving them.

(4) "Insurable interest" as to the personal insurance means that every individual has an insurable interest in the life, body, and health of himself, and of other persons as follows:

(a) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement, or injury of the individual insured;

(c) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in the shares, has an insurable interest in the life, health, or bodily safety of each individual party to the contract for the purpose of the contract only, in addition to any insurable interest which may otherwise exist as to the individual; and

(d) Any domestic or foreign corporation which provides its active or retired employees with benefits under a retirement or other employee benefit plan governed by the Federal Employee Retirement Income Security Act of 1974, as amended, has an insurable interest in the life, health, or bodily safety of any active or retired employee of the corporation or of any of its subsidiaries who is covered by a plan, and any trustee of a trust established by the corporation for the sole benefit of the corporation shall have the same insurable interest in the employee as the corporation itself. ***With respect to employer provided pension and welfare plans, the life insurance coverage purchased to finance the plans shall only be allowed on the life of an employee or retiree who, at the time his or her life is first insured under the plan, is eligible to participate in the plan. An employer is required to notify eligible employees of their proposed participation in the plan and an employee shall be given an opportunity to refuse to participate. An employer shall obtain the written consent of each individual being insured. Consent may include an acknowledgment that the employer may maintain the life insurance coverage even after the insured individual's employment has terminated. An employer shall not retaliate in any manner against an employee or a retired employee for refusing consent to be insured.***

(5) An insurer shall be entitled to rely upon all statements, declarations, and representations made by an individual applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations, or representations so relied upon in good faith by the insurer.

HB 579, AN ACT relating to continued group health insurance and conversion health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) ***"Group member" means any person who is terminated from membership in a group and is eligible to continue group coverage under this section;***

(b) "Group policy" means ***any policy of*** group health insurance[~~ policies~~] as defined in KRS 304.18-020 ***which:***

1. Meets the definition of health benefit plan, as defined in KRS 304.17A-005(18);

2. Is issued by an insurer to a group of at least two (2) persons but no more than nineteen (19) persons covered under the policy on more than fifty percent (50%) of the typical business days in the previous calendar year; and

3. Is issued or renewed on or after the effective date of this Act[~~and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:~~

~~1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;~~

~~2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and~~

~~3. Are delivered, issued for delivery, or renewed after July 15, 2002~~];

(c)[~~(b)~~] "Medicare" means ***benefits provided under*** Title XVIII of the United States Social Security Act***, 42 U.S.C. secs. 1395 et seq.,*** as amended or superseded.

(2) ***Group members***[~~Persons~~] insured under group policies have the right upon termination of group membership***, other than termination for reason of gross misconduct,*** to continue coverage for themselves and their dependents upon meeting the following conditions:

(a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and

(b) Notice is given to the insurer and payment of the group rate is made to the insurer, by the group member ***or other eligible person, under subsection (6) of this section***, within thirty-one (31) days after notice pursuant to subsection ***(6)***[~~(7)~~] of this section.

(3) Continued group health insurance coverage shall terminate on the earlier of:

(a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;

(b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made;[~~ or~~]

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days***;***

(d) The date the group member becomes covered under any other group health plan, which does not contain any exclusion or limitation with respect to any pre-existing condition of the group member; or

(e) The date the group member becomes entitled to benefits under Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq.

(4) If a group policy is replaced, by a succeeding insurer, persons under the continued group health insurance shall remain covered under the prior insurer's policy until it terminates in accordance with subsection (3) of this section.

(5) The right to continue group health insurance coverage shall also be available:

(a) ***To the spouse of a group member:***

1. Upon the group member's termination from group membership;

2. [~~To the surviving spouse, ~~]At the death of the group member[~~, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member~~];

3. Upon the divorce or legal separation from the group member; and

4. Upon the group member becoming entitled to Medicare; or

(b) To the dependent children of the group member:

1. Upon the group member's termination from group membership;

2. At the death of the group member;

3. Upon the divorce or legal separation of the group member;

4. Upon the group member becoming entitled to Medicare; and

5. Upon the loss of dependent child status under the group policy.

[~~(b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or~~]

~~(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.~~

~~(6) Continuation of group health insurance coverage need not be granted in the following situations:~~

~~(a) On the effective date of coverage, the applicant is or could be covered by Medicare;~~

~~(b) On the effective date of coverage, the applicant is or could be covered by another group coverage (insured or uninsured).~~]

(6)[~~(7)~~] Notice of the right to continue group health insurance coverage shall be given as follows:

(a) For group policies delivered, issued for delivery, or renewed ***on or after the effective date of this Act***[~~after July 15, 2002~~], the insurer shall give written notice of the right to continue group health insurance coverage to any group member entitled to continue coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group. The thirty-one (31) day period of subsection (2)(b) of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member;

(b) If a group member becomes entitled to obtain continued health insurance coverage, pursuant to this section, and the insurer fails to give the group member written notice of the right, pursuant to this subsection, the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of continuation rights to the group member and such group member shall have an additional period within which to exercise continuation or conversion rights. The additional period shall expire sixty (60) days after written notice is received from the insurer. Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph. If a group member makes application and pays the premium for continued health insurance coverage within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group. However, nothing in this subsection shall require an insurer to give notice or provide continuation coverage to a former group member ninety (90) days after termination of the former group member's group coverage.

(7) An insurer issuing a continuation policy under this section shall not charge more than one hundred two percent (102%) of the cost of the plan for similarly situated individuals covered under the group policy who have not experienced a continuation qualifying event.

Section 2. KRS 304.18-114 is amended to read as follows:

(1) As used in this section:

(a) "Conversion health insurance ***policy***[~~coverage~~]" means a health benefit plan meeting the requirements of this section and regulated in accordance with Subtitles 17 and 17A of this chapter;

(b) ***"Former group member" means any person who is:***

1. Covered under a group policy as defined in Section 1 of this Act;

2. Terminated under the group policy for any reason, including the termination of a continuation policy pursuant to Section 1 of this Act; and

3. Entitled to a conversion policy pursuant to this section;

(c) "Group policy" has the meaning provided in KRS 304.18-110; and

(d)[~~(c)~~]"Medicare" has the meaning provided in KRS 304.18-110.

(2) An insurer providing group health insurance coverage shall offer a conversion health insurance policy, by written notice, to any ***former*** group member terminated under the group policy for any reason.[~~ The insurer shall offer a conversion health insurance policy substantially similar to the group policy.~~] The former group member shall meet the following conditions:

(a) The former group member had been a member of the group and covered under any health insurance policy offered by the group for at least three (3) months;

(b) The former group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection ***(6)***[~~(5)~~] of this section; and

(c) The former group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection ***(6)***[~~(5)~~] of this section.

(3) An insurer shall offer the following terms of conversion health insurance coverage:

(a) Conversion health insurance coverage shall be available without evidence of insurability and may contain a pre-existing condition limitation in accordance with KRS 304.17A-230;

(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:

1. The effective date of the conversion policy; or

2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;

(c) The conversion health insurance policy shall cover the former group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated***; and***

(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy[~~; and~~].

[~~(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120 and any administrative regulations promulgated thereunder.~~]

(4) ***The department shall promulgate an administrative regulation in accordance with National Association of Insurance guidelines to set forth the benefits to be provided in the conversion health insurance.***

(5) Conversion health insurance coverage need not be granted in the following situations:

(a) On the effective date of coverage, the applicant is or could be covered by Medicare;

(b) On the effective date of coverage, the applicant is or could be covered by another group coverage (insured or uninsured) or, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or

(c) The issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.

(6)[~~(5)~~] Notice of the right to conversion health insurance coverage shall be given as follows:

(a) For group policies delivered, issued for delivery, or renewed ***on or after the effective date of this Act***[~~after July 15, 2002~~], the insurer shall give written notice of the right to conversion health insurance coverage to any former group member entitled to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group, upon termination of the former group member's continued group health insurance coverage pursuant to KRS 304.18-110 or COBRA as defined in KRS 304.17A-005(6), or upon termination of the group policy for any reason. The written notice shall clearly explain the former group member's right to a conversion policy.

(b) The thirty-one (31) day period of subsection (2)(b) of this section shall not begin to run until the notice required by this subsection is mailed or delivered to the last known address of the former group member.

(c) If a former group member becomes entitled to obtain conversion health insurance coverage, pursuant to this section, and the insurer fails to give the former group member written notice of the right, pursuant to this subsection, the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of conversion rights to the former group member and such former group member shall have an additional period within which to exercise his conversion rights. The additional period shall expire sixty (60) days after written notice is received from the insurer. Written notice delivered or mailed to the last known address of the former group member shall constitute the giving of notice for the purpose of this paragraph. If a former group member makes application and pays the premium, for conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage. However, nothing in this subsection shall require an insurer to give notice or provide conversion coverage to a former group member ninety (90) days after termination of the former group member's group coverage.

HB 582, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

When a life insurance policy becomes a claim by the death of the insured, the insurer shall accept as proof of death a written statement of death by a physician licensed under KRS Chapter 311 in charge of the person's care for the illness or condition which resulted in death, a county coroner, or a funeral director licensed under KRS Chapter 316. If the death is from natural causes and the life insurance policy is incontestable, settlement shall be made in a timely manner upon receipt of such a written statement.

HB 592, AN ACT relating to health insurance riders to exclude coverage for a specified condition.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Insurers providing health benefit plans for individuals may issue policies containing riders or endorsements that exclude coverage for a specified condition that existed prior to the issuance of coverage and complications that arise from the specified condition if all of the following standards are met:

(1) The coverage exclusion shall be for a specific medical condition and complications arising from the condition;

(2) The coverage exclusion shall not apply to any other medical condition not related directly to the specific medical condition being excluded;

(3) The insurer shall provide to the applicant before issuance of the policy a written notice explaining the coverage exclusion for the specified condition and complications arising from the condition;

(4) The insurer's offer of coverage and policy shall clearly indicate in bold print as a separate section of the policy or on a separate form that the applicant is being offered coverage with a coverage exclusion and specifying the excluded medical condition and related complications that will be considered as arising from the excluded condition;

(5) The insurer's offer of coverage and policy shall not include riders or endorsements that exclude coverage for more than two (2) specified conditions;

(6) The insurer shall notify the applicant that it will review the underwriting basis for the coverage exclusion upon request one (1) time per year and remove the coverage exclusion, no later than the next policy renewal date, if the insurer determines that evidence of insurability is satisfactory;

(7) The insurer shall notify the applicant in writing that the applicant may decline the offer of coverage with a coverage exclusion and obtain coverage through Kentucky Access as provided in Section 2 of this Act;

(8) The coverage exclusion period shall be concurrent with any other applicable preexisting condition limitation or exclusion period;

(9) The health carrier shall provide to covered persons who may be subject to coverage exclusions a means by which coverage for specific services can be verified in advance;

(10) Riders or endorsements containing coverage exclusions shall not apply to services, benefits, or options required by state or federal law to be included in the coverage; and

(11) Any rider or endorsement used to reduce or deny payment for coverage, otherwise included in the policy, shall include the name or specific description of the sickness or physical condition that is to be reduced or denied.

Section 2. KRS 304.17B-015 is amended to read as follows:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least one (1) insurer for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal;[~~ or~~]

(c) The individual has a high-cost condition listed in KRS 304.17B-001***; or***

(d) The individual has received an offer of coverage from an insurer of a individual health benefit plan that contains a rider or endorsement excluding coverage for a specified condition pursuant to Section 1 of this Act.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, or is eligible for, on the effective date of coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section or the requirements of any administrative regulation promulgated under this subtitle may be terminated.

HB 633, AN ACT relating to insurance health care benefit plans and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate[~~, except that the premium rates charged to an individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001. However,~~] upon any policy issuance or renewal, on or after January 1, 2003[~~, the maximum variation shall revert to thirty five percent (35%) of the index rate~~].

(2) ***Notwithstanding the thirty-five percent (35%) variance limitation in subsection (1) of this section, insurers offering an individual health benefit plan that is state-elected under sec. 35(e)(1)F of the Trade Act of 2002, Pub. L. No. 107-210 sec. 201, may vary from the index rate by more than thirty-five percent (35%) for individuals who are eligible for the health coverage tax credit under the following conditions:***

(a) The insurer certifies that the individual does not meet the insurer's underwriting guidelines for issuance of an individual policy;

(b) The policy meets the requirements for state-elected coverage under the Trade Act of 2002; and

(c) The premium rate is actuarially justified and has been approved by the Department of Insurance pursuant to KRS 304.17A-095.

(3) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(4)[~~(3)~~] The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than fifty percent (50%) of the index rate.

(5)[~~(4)~~] The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6)[~~(5)~~] In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7)[~~(6)~~] Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8)[~~(7)~~] The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans;[~~or~~]

2. The insurer has acquired a class of business from another insurer*; or*

3. The insurer is offering a state-elected plan under the provisions of the Trade Act of 2002, Pub. L. No. 107-210 sec. 201.

(c) Notwithstanding any other provision of this subsection, beginning January 1, 2001, a GAP participating insurer may establish a separate class of business for the purpose of separating guaranteed acceptance program qualified individuals from other individuals enrolled in their plan prior to January 1, 2001. The index rate for the separate class created under this paragraph shall be established taking into consideration expected claims experience and administrative costs of the new class of business and the previous class of business.

(9)[~~(8)~~] For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10)[~~(9)~~] Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(11)[~~(10)~~] Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 2. Whereas immediate and special circumstances make numbers of uninsured Kentucky residents eligible for a federal health coverage tax credit, which provides for the Internal Revenue Service to subsidize sixty-five percent (65%) of these residents' health coverage premium, the current qualified health plans cannot provide coverage to many of the these residents, and insurers may offer qualified health plans if insurers are statutorily permitted to charge rates that adequately cover the increased risk associated with persons eligible for the federal health coverage tax credit, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

SB 135, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 304.17A-700 to KRS 304.17A-730, relating to payment of claims, shall apply to limited health service benefit plans for the provision of dental-only benefits, except as follows:

(1) A limited health service plan for the provision of dental-only benefits, its agent, or designee shall have three (3) business days in which to respond to an original or corrected claim submitted electronically under KRS 304.17A-704(1)(a), or, within three (3) business days, the limited health service benefit plan for the provision of dental-only benefits, its agent, or designee may list the claim and the date it was received on a file that can be accessed electronically by the provider, its agent, or designee.

(2) Limited health service benefit plans for the provision of dental-only benefits shall be required to submit the reports required by KRS 304.17A-722 on an annual basis.

(3) Limited health service benefit plans for the provision of dental-only benefits shall be required to pay interest required under KRS 304.17A-730 for a claim only if the interest calculated on that claim is equal to or greater than five dollars ($5).

Section 2. This Act takes effect January 1, 2005.

SB 177, AN ACT relating to insurance accounting practices and procedures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-065 is amended to read as follows:

(1) There is created within the Department of Insurance the position of early warning analyst.

(2) The commissioner shall appoint a qualified person to serve as early warning analyst.

(3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business in the Commonwealth that are in a hazardous or potentially hazardous financial condition.

(4) The early warning analyst shall be part of the Financial Standards and Examination Division.

(5) The early warning analyst shall:

  (a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;

  (b) Seek information from other states' detection programs;

  (c) Work with other Department of Insurance employees representing key regulatory areas of the department;

  (d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:

    1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;

    2. An insurer files financial information which is false or misleading;

    3. An insurer overstates its surplus by twenty-five percent (25%) or more;

    4. An insurer fails to grant authorization to amend its financial statement when requested;

    5. An insurer's financial ratios are outside of the usual range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;

    6. A projection by the department of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;

    7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;

    8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;

9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;
10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;
11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are more than ten percent (10%) of an insurer's surplus;
12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;
13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;
14. An insurer has reinsurance agreements affecting twenty percent (20%) or more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;
15. An insurer's management does not have the experience, competence, or trustworthiness to operate the insurer in a safe and sound manner;
16. An insurer's management engages in unlawful transactions;
17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage loan;
18. An insurer fails to comply with the terms of an agreement with an affiliate;
19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;
20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;
21. An insurer violates KRS Chapter 304;
22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and
23. An insurer is in any condition that the commissioner finds is a hazard to policyholders, creditors, or the general public;

(e) Recommend regulatory action and provide status reports to the commissioner; and

(f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance ***annually***~~[biannually]~~ to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

Section 2. KRS 304.2-080 is amended to read as follows:

(1) The commissioner or any deputy, examiner, actuary, assistant or employee of the department, shall not be connected with the management of, or be financially interested, directly or indirectly, in any insurer, insurance agency or broker, or insurance transaction except as policyholder or claimant under a policy; except, that as to matters wherein a conflict of interest does not exist on the part of any such individual, the commissioner may employ or retain from time to time insurance actuaries, examiners, accountants, attorneys, or other technicians who are independently practicing their profession even though from time to time similarly employed or retained by insurers or others.

(2) No person shall directly or indirectly give or pay to the commissioner or any deputy, examiner, actuary, assistant, employee or technician retained by the department; and the commissioner, or any deputy, examiner, actuary, assistant, employee or technician retained by the department, shall not directly or indirectly receive or accept any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by law, or by contract with the commissioner, for any service rendered or to be rendered, as such commissioner, deputy, examiner, actuary, assistant, employee or technician, or in connection therewith.

(3) Subsection (1) of this section shall not be deemed to prohibit receipt by any such person of commissions or retirement benefits to which entitled by reason of services performed prior to becoming commissioner or prior to employment by the commissioner.

~~[(4) This section shall not be deemed to prohibit appointment and functioning of the commissioner as process agent of insurers or of nonresident licensees as provided for in this code.]~~

Section 3. KRS 304.2-300 is amended to read as follows:

(1) There is created in the State Treasury the "Examination Expense Revolving Fund" for the use of the department. The commissioner shall promptly deposit all funds received under a statute requiring examination expenses to be paid by the party examined and deposited with the State Treasurer to the credit of ***the***~~[such]~~ fund.

(2) Moneys for travel, per diem, compensation and other necessary and authorized expenses incurred by an examiner or other department representative in the examination of any person required to pay, and making payment of, the expense of

examination pursuant to KRS 304.2-290 shall be paid out of the examination expense revolving fund, upon approval of the commissioner.

(3) Moneys for travel[~~, compensation~~] and other necessary expenses[~~ of the custodian of insurance securities~~] assessed pursuant to KRS 304.8-190 shall be paid out of the examination expense revolving fund upon approval of the commissioner.

(4) If any amount in ***the***[~~such~~] revolving fund remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account and may be used during the succeeding year or years.

Section 4. KRS 304.2-360 is amended to read as follows:

(1) In the conduct of hearings under this code and making ***a***[~~this~~] final order thereon, the commissioner shall act in a quasijudicial capacity and in accordance with the provisions of this chapter and KRS Chapter 13B.

(2) With respect to hearings held concerning merger, consolidation, bulk reinsurance, conversion, affiliation, or change of control of a domestic insurer as provided in Subtitle 24, or in Subtitle ***37***[~~27~~] of this chapter, where notice of the hearing was given to all stockholders and policyholders or to all stockholders of an insurer involved, the commissioner is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

(3) A final order may require that restitution be made to any person aggrieved by a violation of any provisions of this chapter, any statute administered by the commissioner, or any regulation of the commissioner.

(4) An order prepared by the commissioner's designee and approved in writing by the commissioner shall be considered the commissioner's order.

Section 5. KRS 304.3-110 is amended to read as follows:

An insurer which otherwise qualifies therefor may be authorized to transact any one (1) kind or any combination of kinds of insurance as defined in Subtitle 5, except:

(1) A life insurer may grant annuities and may be authorized to transact in addition only health insurance; except, that the commissioner may, if the insurer otherwise qualifies therefor, continue so to authorize any life insurer which immediately prior to June 18, 1970, was lawfully authorized to transact in this state a kind or kinds of insurance in addition to life and health and annuities. ***Only an insurer with a certificate of authority authorized to sell life insurance may grant and issue annuity contracts.***

(2) A reciprocal or Lloyd's insurer shall not transact life insurance.

(3) A title insurer shall be a stock insurer, and shall not transact any other kind of insurance.

(4) A mortgage guaranty insurer shall be a stock insurer, and shall not transact any other kind of insurance.

Section 6. KRS 304.3-150 is amended to read as follows:

To apply for an original certificate of authority an insurer shall file with the commissioner its written application therefor on forms as prescribed and furnished by the commissioner, accompanied by the applicable fees specified in Subtitle 4, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact (if a reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal office, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, its domicile, and any additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) If a corporation, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of incorporation, currently certified by the public official with whom the originals are on file in a state or country.

(2) A copy of its bylaws, certified by the insurer's secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, and copy of its subscribers agreement, if any, both certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in KRS ***304.27-060***[~~304.2-060~~].

(4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters proposing to engage in the business, along with the number of underwriters which shall not be less than twenty-five (25), and that each underwriter is worth in his own right not less than twenty thousand dollars ($20,000) over and above all his liabilities, along with a statement showing a list of all cash and invested assets owned by the associated underwriters and their value, certified and sworn to by their duly authorized attorney-in-fact.

(5) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state or country of domicile.

(6) A copy of the report of last examination of the insurer prior to the filing of the application, certified by the public insurance supervisory official of the insurer's state or country of domicile.

(7) If a foreign or alien insurer, the name and address of the person to whom the Secretary of State shall forward lawful

process served upon him. If a domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the Secretary of State shall forward lawful process served upon him. Any judgment against a domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in a state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140, and a copy of the trust deed, if any, pertaining to a deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11)[~~ If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.~~

~~(12)~~] If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(12)[~~(13)~~] Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(13)[~~(14)~~] If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each attorney-in-fact.

Section 7. KRS 304.3-180 is amended to read as follows:

(1) A certificate of authority shall continue in force as long as the insurer is entitled thereto under this code, and until suspended or revoked by the commissioner or terminated at the insurer's request; subject, however, to continuance of the certificate by the insurer each year by:

(a) Payment[~~ on or before March 1~~] of the continuation fee provided in Subtitle 4 ***by March 1, or, if paid by mail, postmarked no later than March 1***;

(b) Due filing by the insurer of its annual statement for the next preceding calendar year as required by KRS 304.3-240;

(c) Payment by the insurer of premium taxes with respect to the preceding calendar year; and

(d) Due filing by domestic companies of quarterly statements as approved by the National Association of Insurance Commissioners.

(2) If not so continued by the insurer, its certificate of authority shall expire at midnight on the June 30 next following the failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in KRS 304.4-040. The commissioner shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(3) The commissioner may, in his discretion, upon the insurer's request made within three (3) months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration. Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(4) An insurer shall not use the same accountant or partner of an accounting firm responsible for preparing the ***audited financial statement for more than seven (7)***[~~report required by subsection (1) for more than four (4)~~] consecutive years.

Section 8. KRS 304.3-240 is amended to read as follows:

(1) Each authorized insurer shall annually[~~, before the first day of March,~~] file with the commissioner a true statement of its financial condition, transactions, and affairs as of December 31 preceding. The statement shall be on forms prescribed by the National Association of Insurance Commissioners and shall be completed according to the instructions of the National Association of Insurance Commissioners, and shall be verified by the oaths of at least two (2) of the insurer's principal officers. The annual statement of a reciprocal insurer shall be made and verified by its attorney-in-fact. ***The annual statement shall be filed by March 1 of each year, or, if filed by mail, postmarked no later than March 1. The annual statement of a foreign or alien insurer may be executed or verified by facsimile or reproduced signature; however, the annual statement of a domestic insurer shall contain original signatures.***

(2) [~~The commissioner shall annually during November furnish each insurer duplicate copies of annual statement forms as next required to be filed. ~~]The statement forms shall be in general form and context as approved by the National Association of Insurance Commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner.

(3) The annual statement of an alien insurer shall relate only to its assets, transactions, and affairs in the United States unless the commissioner requires otherwise. The statement shall be verified by the insurer's United States manager or by its officers duly authorized.

(4) The commissioner may suspend or revoke the authority of any insurer failing to file its annual and quarterly statement when due or failing so to file during any extension of time therefor which the commissioner, for good cause, may grant.

(5) Notwithstanding the provisions of this section or any other law of this Commonwealth, an authorized insurer may, subject to the requirements of regulations adopted by the commissioner, publish financial statements or information based on financial statements prepared on a basis which is in accordance with requirements of a competent authority and which differs from the basis of the statements which have been filed with the commissioner in compliance with this section. Such differing financial statements or information based on the financial statements shall not be made the basis for the application of any provision of this chapter not relating solely to the publication of financial information unless the provision specifically so requires.

Section 9. KRS 304.3-320 is amended to read as follows:

(1) Foreign insurers currently admitted to do the business of life and health insurance in Kentucky and foreign insurers hereafter admitted to do the business of life and health insurance in Kentucky which are domiciled in states which have no life and health insurance guaranty association or similar guaranty fund in operation may be required by the commissioner, in order to protect Kentucky policyholders, to ***furnish to the commissioner a*** deposit ***of cash or***[~~with the custodian of insurance securities~~] publicly-traded securities having a market value of not less than one hundred thousand dollars ($100,000) nor more than one million dollars ($1,000,000).

(2) In establishing the amount of the deposit required by subsection (1) of this section for a particular insurer, the commissioner shall consider the following factors:

(a) The amount of Kentucky writings;

(b) The amount of policy reserves and claim reserves pertaining to Kentucky risks;

(c) The kind of insurance written in Kentucky;

(d) The current financial and operating test results of the insurer provided by the National Association of Insurance Commissioners under its insurance regulatory information system; and

(e) Any other relevant financial data.

SECTION 10. A NEW SECTION OF SUBTITLE 6 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Accounting practices and procedures manual" means the accounting practices and procedures manual, as amended, published by the National Association of Insurance Commissioners; and

(2) "SSAP" means the statements of statutory accounting principles in the accounting practices and procedures manual.

Section 11. KRS 304.6-010 is amended to read as follows:

(1) In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(a) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(b) Investments, securities, properties and loans acquired or held in accordance with this code and in connection therewith the following items:

1. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

2. Declared and unpaid dividends on stocks and shares, unless such amount has otherwise been allowed as an asset.

3. Interest due or accrued upon a collateral loan in an amount not to exceed one (1) year's interest thereon.

4. Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectible asset.

5. Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal***. Collectible interest one hundred eighty (180) days past due on a mortgage loan in default is a nonadmitted***[~~; but in no event shall interest accrued for a period in excess of eighteen (18) months be allowed as an~~] asset.

6. Rent due or accrued on real property if such rent is not in arrears for more than three (3) months, and rent more than three (3) months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(c) Premium notes, policy loans, and other policy assets and liens on policies of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the ***policy reserves or cash surrender value***[~~legal reserve and other policy liabilities carried on each individual policy~~].

(d) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer, corresponding to the basis on which reserves are held.

(e) Premiums in the course of collection, other than for life insurance, not more than three (3) months past due, less commissions payable thereon. ***To the extent that there is no related unearned premium, any uncollected*** *premium balances which are over ninety (90) days due shall be nonadmitted. The uncollected agent's receivable on a policy basis which is over ninety (90) days due shall be nonadmitted regardless of any unearned premium*[~~The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities~~].

(f) Installment premiums other than life insurance premiums to the extent of the policy reserve carried on the policy to which premiums apply. *If an installment premium is past due, the amount over ninety (90) days due plus all future installments that have been recorded on that policy shall be nonadmitted.*

(g) *Bills receivable*[~~Notes and like written obligations not past due, taken~~] for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the policy reserve carried thereon. *Bills receivable shall be nonadmitted if either of the following conditions are present:*

1. If an installment premium is over ninety (90) days due, the entire bill's receivable balance from that policy shall be nonadmitted; or

2. If the bill's receivable balance due exceeds the policy's unearned premium, the amount in excess of the unearned premium is nonadmitted.

(h) The full amount of reinsurance recoverable *on paid losses and loss adjustment expense* by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under KRS 304.5-140.

(i) *Funds held or deposited with reinsured companies, whether premiums withheld as security for unearned premium and outstanding loss reserves or advances for loss payments, are admitted assets provided they do not exceed the liabilities they secure and provided the reinsured is solvent. Any funds in excess of the liabilities, and any funds held by an insolvent reinsured, shall be nonadmitted*[~~Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty~~].

(j) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by *the commissioner*[~~him~~].

(k) As to a title insurer, its title plant and equipment reasonably necessary for conduct of its abstract or title insurance business, at not to exceed the cost thereof.

(l) Electronic *data processing equipment and operating software are admitted assets to the extent they conform to the requirements of SSAP No. 4. Electronic data processing equipment and software shall be depreciated for a period not to exceed three (3) years using methods detailed in SSAP No. 19. The aggregate value of admitted electronic data processing equipment and operating system software (net of accumulated depreciation) shall be limited to three percent (3%) of the reporting entity's capital and surplus on the statutory balance sheet for its most recently filed statement with its domiciliary state commissioner, adjusted to exclude electronic data processing equipment and operating system software, net deferred tax assets, and net positive goodwill.*

(m) A collateral loan or unconditional obligation for the payment of money secured by the pledge of an investment to the extent it conforms to the requirements of SSAP No. 4. The outstanding principal balance on the loan and any related accrued interest shall be recorded as an admitted asset subject to the following limitations:

1. A collateral loan determined to be impaired shall be an admitted asset equal to the fair market value of the collateral less estimated costs to obtain and sell the collateral. The difference between the net fair value of the collateral and the amount of the collateral loan shall be written off in accordance with SSAP No. 5.

2. A collateral loan secured by an asset that does not qualify as an investment shall be nonadmitted.

3. A collateral loan that exceeds the fair market value of the collateral shall be an admitted asset equal to the fair market value of the collateral. The excess shall be classified as a nonadmitted asset.

(n) Deferred tax assets as defined in SSAP No. 10.

(o) Receivable for securities as defined in SSAP No. 21.

(p) Guaranteed investment contracts as defined in SSAP No. 21.

(q) Cash value of life insurance where the reporting entity is owner and beneficiary as defined in SSAP No. 21.

(r) Other amounts receivable under reinsurance contracts as defined in SSAP No. 21.

(s) State guarantee association promissory notes.

(t)[~~and mechanical machines and related equipment constituting a data processing, record keeping, or accounting system or systems if the cost of each such system, including additions thereto is at least one hundred thousand dollars ($100,000), which cost shall be amortized in full over a period not to exceed ten (10) years. The aggregate amount invested in all such systems shall not exceed five percent (5%) of the insurer's assets.~~

~~(m)~~] All assets[~~, whether or not consistent with the provisions of this section,~~] as may be allowed pursuant to the *accounting practices and procedures manual*[~~annual statement form approved by the commissioner for the kinds of insurance to be reported upon therein~~].

(u)~~[(n)]~~ Other assets, not inconsistent with the provisions of this section, deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by ***the commissioner***~~[him]~~.

(2) Admitted assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the commissioner, or otherwise in his discretion. The commissioner may make official regulations prescribing the application of the provisions of this section.

Section 12. KRS 304.6-020 is amended to read as follows:

The following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names, and other like intangible assets, except as expressly permitted and as prescribed by the National Association of Insurance Commissioners' accounting practices and procedures;

(2) Advances to officers or directors (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only;

(3) Stock of such insurer, owned by it, or loans secured thereby. Any such stock owned by such insurer shall be held as treasury stock and be deducted from the total issue of outstanding shares;

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies***. The following assets are not excluded assets under this subsection:***

  (a) ~~[(other than]~~Equipment authorized under subsection (1) of KRS 304.6-010)***;***

  (b) For~~[, except in the case of]~~ title insurers***,*** such materials and plants as the insurer is expressly authorized to invest in under paragraph (k) of subsection (1) of KRS 304.6-010***;***

  (c) ~~[and except, in the case of an insurer,]~~Such personal property as the insurer is permitted to hold pursuant to Subtitle 7 or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer, other than real estate used by it for home office, branch office, and similar purposes; and

  (d) For health reporting entities, furniture, medical equipment, fixtures, and leasehold improvements used for the direct delivery of health care services;

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code***;***

(6) Due and accrued investment income determined to be uncollectible in accordance with SSAP No. 5;

(7) Due and accrued investment interest determined to be uncollectible in accordance with SSAP No. 5;

(8) Nonoperating system software;

(9) Leasehold improvements that do not meet the definition of assets set forth in SSAP No. 4;

(10) Deposits in suspended depositories;

(11) Receivables determined to be uncollectible or otherwise impaired in accordance with SSAP No. 5;

(12) Automobiles, airplanes, and other vehicles;

(13) A loan receivable and accrued interest, if collateralized by the reporting entity's own stock;

(14) Prepaid expenses; and

(15) Any other asset that does not meet the definition of an asset, or has been specifically identified as a nonadmitted asset in the accounting practices and procedures manual.

Section 13. KRS 304.6-040 is amended to read as follows:

In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any, less the amount of shares held by the insurer as treasury stock as provided in subsection (3) of KRS 304.6-020.

(2) The amount, estimated consistent with the provisions of Subtitle 6, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life insurance policies and annuity contracts, and disability and accidental death benefits in or supplemental thereto:

  (a) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to KRS 304.6-130 to 304.6-180, inclusive.

  (b) Reserves for disability benefits, for both active and disabled lives required by paragraph (e) of subsection (2) of KRS 304.6-140.

  (c) Reserves for accidental death benefits, required by paragraph (f) of subsection (2) of KRS 304.6-140.

  (d) Any additional reserves which may be required by the commissioner consistent with applicable customary and general practice in insurance accounting as set forth in regulations promulgated by the commissioner but no such additional reserve shall be required of any company solely for contingent liabilities which may arise under any agreement, filed with and approved by the commissioner, for the assumption of liability by the company growing out of the acts of its exclusive agents within the course and scope of their representation.

(4) Reserves for health insurance required by KRS 304.6-070.

(5) With reference to insurance other than specified in subsections (3) and (4) of this section, and other than title insurance, the amount of the policy reserves computed in accordance with Subtitle 6.

(6) Taxes, expenses and other obligations due or accrued at the date of the statement.

(7) Deferred tax liabilities as defined in SSAP No. 10.

Section 14. KRS 304.6-050 is amended to read as follows:

(1) As to property, casualty, surety and mortgage guaranty insurance the insurer shall maintain an unearned premium reserve on all policies in force.

(2) Except as provided in KRS 304.6-060 as to marine and transportation risks and in subsection (3) of this section the unearned premium reserve shall be computed, after deduction of applicable reinsurance in solvent insurers, at the insurer's election either:

(a) ***On a daily pro rata method basis on each item of premium;***~~[As equal to not less than fifty percent (50%) of the annual premiums in force,]~~ or

(b) On a monthly~~[or more frequent]~~ pro rata basis as to all such reserves.

(3) As to mortgage guaranty insurers, premiums on risks written for one (1) year or less must be reserved on a monthly pro rata basis.

(4) After adopting a method for computing such reserve, an insurer shall not change methods without the approval of the insurance supervisory official of the insurer's domicile.

Section 15. KRS 304.6-090 is amended to read as follows:

For the protection of the ***policyholders against loss during periods of extreme economic contraction***~~[people of this Commonwealth and for the purpose of protecting against the effect of adverse economic cycles]~~, each mortgage guaranty insurer shall ***maintain a liability referred to as a statutory contingency reserve. The statutory contingency reserve shall be a separate fund, in addition to the mortgage guaranty insurer's unearned premium reserve.***~~[establish a contingency reserve which shall be maintained for one hundred eighty (180) months. To provide for this,]~~ The insurer shall annually contribute fifty percent (50%) of the earned premiums ***from mortgage guaranty insurance contracts*** to this ***liability, which shall be maintained for ten (10) years regardless of the coverage period for which premiums were paid.***~~[reserve. The earned premiums so reserved may be released, annually, after the specified time of one hundred eighty (180) months has elapsed. However,]~~ Subject to the approval of the commissioner, ***the contingency***~~[this]~~ reserve may be ***released in any year in which actual incurred losses exceed thirty-five percent (35%) of the corresponding earned premiums. Any reductions shall be made on a first-in, first-out basis. Changes in the reserve shall be recorded directly to unassigned funds***~~[available only for loss payments, when the loss ratio (incurred losses to premiums earned) exceeds twenty percent (20%). This amount so used shall reduce the next subsequent annual release to surplus from the established contingency reserve]~~.

Section 16. KRS 304.6-100 is amended to read as follows:

(1) As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable, and to provide for the expenses of adjustment or settlement of losses and claims. The reserves shall be computed in accordance with regulations from time to time made by the commissioner, after due notice and hearing, upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

(2) Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with such regulations, are inadequate, the commissioner may require the insurer to maintain additional reserves.

(3)~~[The minimum reserve requirements prescribed by the commissioner for unpaid losses and loss expenses incurred during each of the most recent three (3) years for coverages included in the lines of business described in the insurer's annual statement as workers' compensation, liability other than auto (B.I.), and auto liability (B.I.) shall not be less than the following: for workers' compensation, sixty-five percent (65%) of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year; for liability other than auto (B.I.) and auto liability (B.I.), sixty percent (60%) of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year.~~

~~(4)]~~ The commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Section 17. KRS 304.6-180 is amended to read as follows:

(1) If in any contract year the gross premium charged by any life insurer on any policy or contract, which is subject to subsection (2) of KRS 304.6-140, is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in KRS 304.6-140 and 304.6-145. Provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in KRS 304.6-150, ignoring the second subsection of that section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with KRS 304.6-150, including the second subsection of that section, and the minimum reserve calculated in accordance with this section.

(2) When the anticipated losses, loss adjustment expenses, commissions, and the acquisition costs, and maintenance costs exceed the recorded unearned premium reserve, and any future installment premiums on existing policies, a premium deficiency reserve shall be recognized by a property and casualty insurer by recording an additional liability for the deficiency, with a corresponding charge to operations. Commission and other acquisition costs need not be considered in the premium deficiency analysis to the extent they have previously been expensed. For purposes of determining if a premium deficiency exists, insurance contracts shall be grouped in a manner consistent with how policies are marketed, serviced, and measured. A liability shall be recognized for each grouping where a premium deficiency is indicated. Deficiencies shall not be offset by anticipated profits in other policy groupings. If a premium deficiency reserve is established, disclosure of the amount of that reserve shall be made in the financial statements. If a reporting entity utilizes anticipated investment income as a factor in the premium deficiency calculation, disclosure of this shall be made in the financial statements.

(3) When the anticipated losses, loss adjustment expenses, commissions and other acquisition costs, and maintenance costs exceed the recorded unearned premium reserve, contingency reserve, and the estimated future renewal premium on existing policies, a mortgage guaranty insurer shall recognize a premium deficiency reserve by recording an additional liability for the deficiency with a corresponding charge to operations. Commissions and other acquisition costs need not be considered in the premium deficiency analysis to the extent they have been expensed. If a mortgage guaranty insurer utilizes anticipated investment income as a factor in the premium deficiency calculation, disclosure of this shall be made in the financial statements.

(4) When the expected claims payments or incurred costs, claim adjustment expenses and administration costs exceed the premiums to be collected for the remainder of a contract period, an individual or group accident and health insurer or health maintenance organization shall recognize a premium deficiency reserve by recording an additional liability for the deficiency, with a corresponding charge to operations. For purposes of determining if a premium deficiency exists, contracts shall be grouped in a manner consistent with how policies are marketed, serviced, and measured. A liability shall be recognized for each grouping where a premium deficiency is indicated. Deficiencies shall not be offset by anticipated profits in other policy groupings. Such accruals shall be made for any loss contracts, even if the contract period has not yet started.

Section 18. KRS 304.8-010 is amended to read as follows:

(1) All deposits of assets of insurers required or permitted under this code and made in this state shall be made and maintained with the *commissioner.*[~~custodian of insurance securities of this state, hereinafter called "custodian."~~]

(2) In addition to deposits required for an insurer's authority to transact insurance in this state, an insurer may deposit and maintain with the *commissioner*[~~custodian~~] deposit of assets:

(a) Required of an insurer by the laws of other states as prerequisite for authority to transact insurance in such other states.

(b) Required by application of the retaliatory provision, KRS 304.3-270.

(c) In such additional amounts as is permitted by this subtitle, or as expressly required by this code.

Section 19. KRS 304.8-020 is amended to read as follows:

(1) All[~~ such~~] deposits shall be held by the *commissioner*[~~custodian~~] in trust for the benefit and protection of all of the insurer's policyholders and creditors in the United States.

(2) The deposit of a domestic insurer shall further be security for payment of taxes, assessments, forfeitures, fines, or other charges due and unpaid to this state or any other state in which the insurer has been authorized to transact insurance, and may be applied to *the*[~~such~~] extent as may be necessary for[~~ such~~] payment.

(3) Except, that deposits required pursuant to the retaliatory provision, KRS 304.3-270, or required of a domestic insurer pursuant to the laws of another state, may be limited to *the*[~~such~~] uses and purposes as *are*[~~is~~] consistent with *the*[~~such~~] provision or laws. But no[~~ such~~] deposit so required of a domestic insurer shall be allowed in lieu of or as a credit upon

any deposit required of ***an***[~~such~~] insurer under this subtitle if the purpose of ***the***[~~such~~] deposit so required by another state is materially inconsistent with the purpose stated in subsection (1) of this section.

Section 20. KRS 304.8-040 is amended to read as follows:

(1) The commissioner may accept the home office real property of a domestic insurer as a part of any deposit of assets required of the insurer under this code. For ***this***[~~such~~] purpose the insurer shall convey such real property by deed to the commissioner, and the deed shall be duly recorded and deposited with the ***commissioner***[~~custodian~~].

(2) Real property so deposited shall not be sold or further encumbered by the insurer except upon advance approval of the commissioner after full submission of the purposes and detail of ***the***[~~any such~~] sale or encumbrance to the commissioner. The commissioner shall join in the execution of any deed or other document required to consummate ***the***[~~such~~] sale or encumbrance. Upon any ***the***[~~such~~] sale or encumbrance the insurer shall deposit other assets in lieu of such real property.

(3) ***This***[~~Such~~] real property shall be valued at its fair value as determined by the commissioner.

Section 21. KRS 304.8-090 is amended to read as follows:

(1) The commissioner shall designate at least one (1) ***bank***[~~but not more than five (5) banks~~] or trust ***company***[~~companies~~] in each county of this state containing a city of the first class or a consolidated local government and such other banks as proposed by the insurer and approved by the commissioner ***which***[~~whose~~] vaults shall be used as depositories for assets of insurers deposited under this code.

(2) ***Any expense associated with***[~~Each insurer~~] depositing assets ***under this chapter*** shall ***be borne by the insurer***[~~, at its own expense, rent space therefor in the vaults of the banks or trust companies so designated~~].

Section 22. KRS 304.8-095 is amended to read as follows:

Notwithstanding any other provision of law, the commissioner may cause any or all deposits of assets of insurers required or permitted under this code and maintained in this state to be made and maintained in trust with depositories designated pursuant to KRS 304.8-090(1) under trust agreements to which[~~ such~~] depositories, insurers, and the commissioner are parties, for the purpose of this subtitle. ***These***[~~Such~~] trust agreements shall provide with respect to deposits thereunder provisions, conditions and stipulations corresponding to those applicable to other deposits under this subtitle and shall require [~~such ~~]depositories to perform the same duties with respect to deposits thereunder as the ***commissioner***[~~custodian of insurance securities~~] is required to perform with respect to other deposits under the subtitle. Insurers who have made deposits under ***these***[~~such~~] trust agreements shall be relieved of all other obligations under this subtitle with respect to the assets deposited thereunder.

Section 23. KRS 304.8-100 is amended to read as follows:

As to each insurer making or having a deposit the commissioner[~~ and custodian~~] shall keep a complete record thereof showing:

(1) The particular assets so deposited.

(2) The face value, if any, of any[~~ such~~] asset, and the value thereof as determined by the commissioner.

(3) Date of deposit, and place thereof.

(4) Assets withdrawn, date thereof, value of assets so withdrawn, and the name and address of any person to whom ***the***[~~such~~] assets were delivered.

(5) ***All***[~~Such~~] other information as the commissioner deems necessary.

Section 24. KRS 304.8-110 is amended to read as follows:

(1) The commissioner may at any time inventory assets on deposit as to any insurer. Upon request of the insurer the commissioner shall make[~~ such~~] an inventory at the insurer's expense, and shall furnish the insurer a copy thereof. All inventories shall be made in the presence of the commissioner and two (2) representatives of the insurer designated for the purpose by its board of directors.

(2) Upon request, the ***commissioner***[~~custodian~~] shall give to any insurer depositing assets a certificate thereof describing the assets and setting forth their par value, if any, and their value, which valuation shall be ***determined by***[~~subject to the approval of~~] the commissioner.

Section 25. KRS 304.8-150 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every domestic life insurer shall, within ninety (90) days after the net cash value of each policy in force has been ascertained as required by law, deposit with the ***commissioner***[~~custodian of insurance securities~~] for the security and benefit of its policyholders, assets in an amount which, together with ***the***[~~such~~] sums as may be deposited by it with other states and governments by the requirements of their laws, shall be not less than the ascertained valuation of all policies in force less any sums that it has advanced from its legal reserve to its policyholders on the pledge to it of their policies and any accumulations thereon.

(2) If the legal reserve or the aggregate ascertained valuation of all policies in force in any domestic life insurer equals $20,000,000, no further deposit shall be required of the insurer so long as the legal reserve remains at or above $20,000,000, unless the insurer elects to represent on its policies or otherwise that the legal reserve or cash value of its policies thereafter written is on deposit with this state or one or more of its designated agencies, in which event the insurer shall deposit assets as above set out in an amount equal to the ascertained valuation of all of its policies in force at the time the representation is made.

Section 26. KRS 304.8-170 is amended to read as follows:

(1) Any[~~ such~~] required deposit shall be released, in addition to circumstances already provided for, in these instances only:

  (a) Upon extinguishment of substantially all liabilities of the insurer for the security of which the deposit is held, by reinsurance contract or otherwise.

  (b) If ***the***[~~such~~] deposit is no longer required under this code.

  (c) If the deposit was made pursuant to the retaliatory provision, KRS 304.3-270, it shall be released in whole or in part when no longer so required.

  (d) Upon proper order of a court of competent jurisdiction the deposit shall be released to the receiver, conservator, rehabilitator, or liquidator of the insurer.

(2) No[~~ such~~] release shall be made except on application to and written order of the commissioner made upon proof satisfactory to ***the commissioner***[~~him~~] of the existence of one of ***the***[~~such~~] grounds therefor.[~~ The custodian shall release the deposit upon such order of the commissioner.~~] The commissioner shall not have any personal liability for any such release of any deposit or part thereof so ordered by ***the commissioner***[~~him~~] in good faith.

(3) All release of deposits or any part thereof shall be made to the person then entitled thereto upon proof of right satisfactory to the commissioner.

Section 27. KRS 304.8-180 is amended to read as follows:

(1)[~~ Access shall not be had to the vaults wherein the assets are deposited, nor shall any such~~]Assets ***shall not*** be removed ***from the bank or trust company wherein the assets are deposited***[~~therefrom~~], except upon the written order of at least two (2) officers authorized for the purpose by the insurer's board of directors or other governing body, which order must have been approved by the commissioner.

(2) The[~~ vaults wherein assets are deposited shall be opened and~~] assets ***shall be*** deposited or removed only in the joint presence of the ***commissioner***[~~custodian~~] and two (2) representatives of the insurer authorized for the purpose by the insurer's board of directors or other governing body.

(3) Except, that[~~ the vaults may be opened and~~] assets ***may be*** deposited or removed under the direction and upon the order of a court of competent jurisdiction, and in the presence of the ***commissioner***[~~custodian~~].

Section 28. KRS 304.8-190 is amended to read as follows:

(1) Insurers maintaining deposits of assets in this state under this subtitle, shall pay into the examination expense revolving fund as provided in Subtitle 2 of this chapter, moneys sufficient to pay travel,[~~ compensation~~] and other necessary expenses of the ***commissioner related to the maintenance, valuation, protection, or administration of the insurer's deposit***[~~custodian of insurance securities, through the office of the commissioner of insurance~~].

(2) The portion of ***the***[~~such~~] expense fund to be paid by each such insurer shall be in the same approximate proportion as the amount ***the***[~~such~~] insurer had on deposit on December 31 of the preceding year bears to the total such deposits of all insurers as of December 31 of the preceding year. The commissioner shall assess each insurer for its proportionate share of ***the***[~~such~~] expense fund. The minimum charge for each insurer shall be five dollars ($5).

Section 29. KRS 304.13-390 is amended to read as follows:

(1) ***If the state fire marshal gives notice to the Department of Insurance that any authorized insurer has failed to comply with the provisions of KRS 227.250, the commissioner may take appropriate action up to and including revoking or suspending the insurer's certificate of authority***[~~The commissioner shall ascertain as soon as practicable the annual fire loss in each municipality in the Commonwealth; obtain, make and maintain a record thereof and collect such data with respect thereto as will enable the commissioner to classify the fire losses in each municipality in the Commonwealth, the causes thereof, and the amount of premiums collected therefor for each class of risks and the amount paid thereon, in such manner as will aid in determining equitable insurance rates, methods of reducing such fire losses and reducing the insurance rates for risks in each municipality in the Commonwealth as provided in this section.~~

~~(2) The commissioner shall compile for each municipality in Kentucky a list of the insured fire losses in excess of five hundred dollars ($500) per loss paid in that municipality for the preceding statistical year.~~

~~(3) The list shall include:~~

  ~~(a) The names of persons recovering insured losses;~~

  ~~(b) The addresses or locations where the losses occurred; and~~

  ~~(c) The amount paid by the insurance company on each loss.~~

~~(4) The commissioner shall obtain the information to make the lists from insurance company reports of individual losses during the statistical year, either directly from such insurance companies or from such lawful rating organization or agency of which such insurance companies may be a member or subscriber.~~

~~(5) Each municipality shall examine its list to determine the losses actually occurring in its limits and shall make a report to the fire marshal, which report shall include:~~

  ~~(a) A list of the losses that occurred within the limits of the municipality;~~

~~(b) A list of the losses not occurring within the municipality; and~~

~~(c) Other evidence essential to establishing the losses in the municipality. The fire marshal shall transmit a copy of each municipality's report to the commissioner.~~

~~(6) The commissioner shall make such changes or corrections as he shall determine to be necessary in order to correct the list of insured fire losses paid in a particular municipality~~].

Section 30. KRS 304.24-300 is amended to read as follows:

(1) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan, except that if public offering and sale is made of the loan securities, the insurer may pay the reasonable costs thereof approved by the commissioner.

(2) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid. ***A surplus note shall be reported as surplus and not as debt only if the surplus note contains the following provisions:***

(a) Subordination to policyholder;

(b) Subordination to claimant and beneficiary claims;

(c) Subordination to all other classes of creditors other than surplus note holders; and

(d) Interest payments and principal repayments require prior approval of the state of domicile.

(3) Any such loan shall be subject to the commissioner's approval. The insurer shall in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within fifteen (15) days after date of such filing the insurer is notified of the commissioner's disapproval and the reasons therefor. The commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

(4) Any such loan or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made unless approved in advance by the commissioner.

(5) This section shall not apply to other kinds of loans obtained by the insurer in ordinary course of business, nor to loans secured by pledge or mortgage of assets.

Section 31. KRS 304.24-500 is amended to read as follows:

(1) The purpose of this section is to:

(a) Provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer;

(b) Provide a means for any domestic insurer to transfer its domicile to another state; and

(c) Provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger, consolidation, or any other lawful method.

(2) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may***, upon approval of the commissioner,*** become a domestic insurer by complying with all of the requirements of this chapter relating to the organization and authorization of a domestic insurer of the same type and by designating its principal place of business at a place in this state. ***The***[~~Such~~] a domestic insurer ***shall***[~~will~~] be entitled to like certificates of authority to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

(3) Any domestic insurer may, upon approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon ***the***[~~such a~~] transfer ***the***[~~such an~~] insurer shall cease to be a domestic insurer, and shall be authorized to transact insurance business in this state if qualified as a foreign insurer. The commissioner shall approve ***the***[~~any such~~] proposed transfer unless ***the commissioner***[~~he~~] shall determine ***the***[~~such~~] transfer is not in the interest of the policyholders of this state.

(4) The certificate of authority, agents' appointments and licenses, rates, and other items which the commissioner allows, in ***the commissioner's***[~~his~~] discretion, which are in existence at the time any insurer authorized to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or merger pursuant to KRS 271B.11-070, or any other lawful method, shall continue in full force and effect upon ***the***[~~such~~] transfer if ***the***[~~such~~] insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the insurer or its

new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. However, every transferring insurer shall notify the commissioner in writing of the details of the proposed transfer and shall file promptly appropriate amendments to corporate documents required to be filed with the commissioner.

(5) (a) Any insurer transferring its domicile in accordance with subsections (2) or (3) of this section shall file an application for redomestication and transfer of domicile with the commissioner. This transfer of domicile must be approved by order of the commissioner. If the commissioner does not approve the transfer of domicile, the applicant insurer may request a hearing in accordance with KRS 304.2-310(2)(b).

(b) An applicant filing to become a domestic insurer in accordance with subsection (2) of this section shall include a notice of transfer of domicile to the Secretary of State and the articles, amended articles, or restated articles of incorporation in compliance with KRS 271B.2-020.

(c) An application filed by a domestic insurer to transfer its domicile to another state in accordance with subsection (3) of this section shall include a copy of the order approving the redomestication issued by the new state of domicile.

Section 32. KRS 304.27-070 is amended to read as follows:

(1) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(2) The commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor, ***including those provided in Subtitles 2 and 3 of this chapter,*** for failure of the attorney to comply with any applicable provision of this code.

Section 33. KRS 304.28-070 is amended to read as follows:

Action on any policy or contract of insurance made by the attorney for the underwriters may be brought against the attorney or against the attorney and the underwriters or any of them. In ***an***[~~such~~] action, summons and process shall be served on either the ***Secretary of State as provided in KRS 304.3-230***[~~commissioner~~] or on the attorney and when so served shall have the same force and effect as if served on the attorney and on each underwriter personally. A judgment in any such action against the attorney or against any of the underwriters shall be binding upon and be a judgment against each and all of the underwriters as their several liabilities may appear in the contract of insurance on which the action is brought.

Section 34. KRS 304.29-281 is amended to read as follows:

Societies shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices[~~(1) The commissioner, or any person he may appoint, may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public, as provided in the laws regulating insurers, shall also be applicable to the examination of societies.~~

~~(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner~~].

Section 35. KRS 304.30-060 is amended to read as follows:

(1) Every licensee shall maintain records of its premium finance transactions and the [~~said ~~]records shall be open to examination and investigation by the commissioner.[~~The commissioner may at any time require any licensee to bring such records as he may direct to the commissioner's office for examination. Any examination or any part of the examination of any organization subject to the provisions of Subtitle 30 of this chapter shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in Subtitle 2 of this chapter.~~]

(2) Every licensee shall preserve its records of[~~ such~~] premium finance transactions, including cards used in a card system, for at least ***five (5)***[~~three (3)~~] years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic form shall constitute compliance with this requirement.

(3) For the purpose of determining market conduct, business practices, financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each licensed premium finance company as often as reasonably necessary.

(4) Premium finance companies shall be subject to the provisions of KRS 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices.

SECTION 36. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the certificate of authority of a corporation is suspended, the corporation shall not, during the period of suspension, enroll any additional subscribers or members except newborn children or other newly acquired dependents of existing subscribers or members, and shall not engage in any advertising or solicitation whatsoever.

(2) If the certificate of authority of a corporation is revoked, the corporation shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the corporation. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit further operation of the corporation as the commissioner may find to be in the best interest of subscribers or members, to the end that subscribers or members will be afforded the greatest practical opportunity to obtain continuing coverage. If the commissioner permits further operation, the corporation shall continue to collect the dues and fees required of subscribers or members.

Section 37. KRS 304.32-030 is amended to read as follows:

(1) Any nonprofit corporation organized under the laws of this state for the purpose of establishing, maintaining, and operating a nonprofit plan, whereby hospital care, medical-surgical care, dental care, and other health services are made available to persons who become subscribers to such plan or plans under a contract with the corporation, shall be subject to and be governed by the provisions of this subtitle, and shall be exempt from all other provisions of this code, except as[~~herein~~] expressly provided in ***this subtitle***[~~KRS 304.32-270~~], and no insurance law hereafter enacted shall be deemed to apply to ***these***[~~such~~] corporations unless they be specifically referred to therein.

(2) Except as provided in KRS 304.32-300 to 304.32-320, the provisions of this subtitle shall not apply to any employer's self-insured health plan or service established and maintained solely for its members and their immediate families, or to any self-insured health plan or service established, maintained, and insured jointly by any employer and any labor organization or organizations.

Section 38. KRS 304.32-140 is amended to read as follows:

(1) No corporation subject to provisions of this subtitle shall be permitted to do any business in this state unless, in addition to the other requirements of law, it shall have and maintain liquid reserves in an amount not less than five percent (5%) of the corporation's subscription income collected in the preceding year not exceeding two million dollars ($2,000,000), plus two and one-half percent (2.5%) of income exceeding two million dollars ($2,000,000) but not exceeding ten million dollars ($10,000,000), plus one percent (1%) of income exceeding ten million dollars ($10,000,000); but in no event shall reserves be less than five hundred thousand dollars ($500,000). All corporations subject to the provisions of this subtitle shall place on deposit with the ***commissioner***[~~custodian of insurance securities~~] a guarantee fund of cash or approved securities in an amount determined by this formula, but not less than five hundred thousand dollars ($500,000) nor more than one million five hundred thousand dollars ($1,500,000). Any amount of liquid reserves required by this subsection in excess of one million five hundred thousand dollars ($1,500,000) shall be maintained by the corporation at all times, but shall not be required to be placed on deposit, provided that ***the***[~~such a~~] corporation shall be allowed a period of five (5) years after July 15, 1982, to establish the liquid reserves and deposit the guarantee fund with the commissioner. A corporation subject to the provisions of this subtitle shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner.

(2) The cash or securities representing the guarantee fund required by this section shall be acceptable to the ***commissioner***[~~custodian of insurance securities~~] and ***the***[~~such~~] securities shall be negotiable securities.

(3) The investments of a corporation subject to the provisions of this subtitle shall be the same kind of investments which life insurance companies are authorized to have.

Section 39. KRS 304.32-210 is amended to read as follows:

(1) Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practice[~~The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any corporation subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the corporation, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any corporation, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each corporation subject to the provisions of this subtitle at least once every four (4) years~~].

(2) Each corporation subject to the provisions of this subtitle may own and invest or have invested any of its funds in its principal office building not to exceed an amount which would reduce its surplus, exclusive of the investment, below $50,000, unless approved by the commissioner.

Section 40. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 7 -- Investments;

(4) Subtitle 8 -- Administration of Deposits;

(5) Subtitle 12 -- Trade Practices and Frauds;

(6) Subtitle 25 -- Continuity of Management;

(7) Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;

(9) Subtitle 4 -- Fees and Taxes;

(10) Subtitle 99 -- Penalties;

(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(12) Subtitle 17A -- Health Benefit Plans;

(13) Subtitle 17B -- Kentucky Access;[~~ and~~]

(14) Subtitle 9 -- Agents, Consultants, Solicitors and Adjusters***; and***

(15) Subtitle 3 -- Authorization of Insurers and General Requirements.

Section 41. KRS 304.33-110 is amended to read as follows:

(1) Whenever the commissioner has reasonable cause to believe, and determines[~~, after a hearing held as prescribed in subsection (2) of this section,~~] that any insurer has committed or engaged in, or is committing or engaging in or is about to commit or engage in any act, practice, or transaction that would subject it to formal delinquency proceedings under this subtitle, he may make and serve upon the insurer and any other persons involved an emergency order in accordance with KRS 13B.125, other than seizure orders under KRS 304.33-120, as is reasonably necessary to correct, eliminate, or remedy the conduct, condition, or ground. If the emergency order is for a restoration of or addition to capital, it shall be carried out as provided in KRS 304.24-350.

(2) The commissioner may apply for and any court of general jurisdiction may grant, restraining orders, temporary and permanent injunctions, and other orders as are deemed necessary to enforce an emergency order.

Section 42. KRS 304.38-120 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices[~~(1) The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any organization subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any organization, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each organization subject to the provisions of this subtitle at least once every three (3) years.~~

~~(2) Any examination, or any part of the examination of any organization subject to the provisions of this subtitle, shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in Subtitle 2 of this chapter~~].

Section 43. KRS 304.38-130 is amended to read as follows:

(1) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this subtitle if ***the commissioner finds that any of the conditions exist for which the commissioner could suspend or revoke a certificate of authority as provided in Subtitles 2 and 3 of this chapter or if the commissioner***[~~he~~] finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under KRS 304.38-040, unless amendments to such submissions have been filed with and approved by the commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of KRS 304.38-050 ***or Subtitle 17A of this chapter***;

(c) The health maintenance organization does not provide or arrange for health care services as approved by the commissioner in KRS 304.38-050(1)(a);

(d) The certificate of need and licensure board certifies to the commissioner that the health maintenance organization fails to meet the requirements of the board or that the health maintenance organization is unable to fulfill its obligations to furnish health care services;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

(g) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(h) The health maintenance organization has otherwise failed to substantially comply with this subtitle.

(2) *If*[~~A certificate of authority shall be suspended or revoked only after compliance with the hearing procedures set out in Subtitle 2.~~

~~(3) When~~] the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of *the*[~~such~~] suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(3)[~~(4)~~] *If*[~~When~~] the certificate of authority of a health maintenance organization is revoked, *the*[~~such~~] organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of *the*[~~such~~] organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit *the*[~~such~~] further operation of the organization as *the commissioner*[~~he~~] may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage. If the commissioner permits such further operation the health maintenance organization will continue to collect the periodic prepayments required of enrollees.

Section 44. KRS 304.38-170 is amended to read as follows:

(1) All applications, filings, and reports required under this subtitle shall be treated as public documents, except as otherwise provided for herein.

(2) The[~~ insurance law and the~~] nonprofit hospital, medical-surgical, dental, and health service corporation law of this state shall not be applicable to any health maintenance organization granted a certificate of authority under this subtitle. This provision does not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this subtitle.

Section 45. KRS 136.410 is amended to read as follows:

[~~(1)~~]Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

[~~(2) In addition to the requirements of subsection (1) of this section, a copy of the statement of all amounts paid to the bail bondsman or his representatives, whether designated as premiums or otherwise, shall be filed with the commissioner of insurance at the same time the bail bondsman files his report of assets and liabilities as required by KRS 304.34-050(1).~~]

Section 46. KRS 304.2-195 is amended to read as follows:

(1) The commissioner may enter into interstate compacts for issuing certificates of authority to insurers if the commissioner determines that:

(a) Each state participating in the compact has requirements for issuing certificates of authority that provide protections substantially similar to or greater than the requirements of this subtitle; or

(b) The interstate compact contains requirements for issuing certificates of authority that provide protections substantially similar to or greater than the requirements of this subtitle.

(2) In lieu of the documents required in KRS 304.3-150[~~(1) to (14)~~] to be filed with an application for certificate of authority, the commissioner may accept documentation in accordance with the terms of the interstate compact.

(3) The commissioner may issue certificates of authority to insurers in accordance with the terms of the interstate compact.

Section 47. KRS 431.510 is amended to read as follows:

(1) It shall be unlawful for any person to engage in the business of bail bondsman as defined in *subsection (3) of this section*[~~KRS 304.34-010(1)~~], or to otherwise for compensation or other consideration:

(a) Furnish bail or funds or property to serve as bail; or

(b) Make bonds or enter into undertakings as surety;

for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.

(2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on June 19, 1976.

(3) *"Bail bondsman" shall mean any person, partnership or corporation engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment, or death, before any of the courts of this state, or securing the payment of fines imposed and of costs assessed by such courts upon final disposition thereof, and the business of a bail bondsman shall be limited to the acts, transactions and undertakings described in this subsection*

and to no other[~~Within thirty (30) days from June 19, 1976, every bail bondsman heretofore licensed under Chapter 304, Subtitle 34, shall furnish to the commissioner of the Department of Insurance a certified copy of his daily bond register required by KRS 304.34-070, and the commissioner shall retain the securities of each bail bondsman deposited with the custodian of insurance securities until all undertakings shall have been paid and satisfied in full~~].

(4) KRS 431.510 to 431.550 shall not be construed to limit or repeal KRS 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and nonprofit associations from posting or causing to be posted by licensed insurers security or acting as surety for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security or acting as surety is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

Section 48. The following KRS sections are repealed:

304.8-060 Custodian of insurance securities.
304.8-070 Custodian's duties, bond.
304.13-043 Hearings on insurance for political subdivisions.
304.32-220 Examination expense.
304.32-230 Hearings -- Appeal.
304.34-010 Definitions for KRS 304.34-020 to 304.34-140.
304.34-020 Commissioner's power to regulate and enforce -- Application for license.
304.34-030 Bail bondsman's license required.
304.34-040 Security required of bondsmen.
304.34-042 Return of securities deposited by bail bondsman.
304.34-045 Filing of rate schedules required -- Premiums not to exceed approved rates.
304.34-050 Actions required of licensed bondsmen.
304.34-060 Affidavit as to consideration for bail bond.
304.34-070 Records required of bondsmen.
304.34-075 Semiannual reports by bondsmen -- Contents.
304.34-080 Actions prohibited to bondsmen -- Persons prohibited from being bondsmen.
304.34-090 Causes for failure to renew, suspension, or revocation of license.
304.34-100 Procedure on failure to renew, suspension, or revocation of license.
304.34-110 Provisions as to suspension or revocation.
304.34-120 Action on bondsman's license involves other insurance licenses.
304.34-130 Administrative penalties.
304.34-140 Permissible city ordinances.
304.34-160 Commissioner to notify clerks of licensed bondsmen's names, suspensions, revocations, reinstatements -- Clerk's reports.
304.99-030 Penalties for violation of bail bondsman licensing law.

SB 181, AN ACT relating to security interests.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.045 is amended to read as follows:

(1) A perfected security interest in a motor vehicle that has been satisfied by payment in full shall be deemed to have been discharged if one (1) or both of the following events has occurred:

(a) The funds to pay in full and discharge the security interest have been provided to the secured party in the form of a cashier's check, certified check, or wire transfer; or

(b) The debt has been paid to a secured party who is no longer in existence or has failed to file the necessary documents to discharge the lien.

(2) If payment in full has been made under subsection (1)(a) of this section, the discharge of the lien shall be made not later than ten (10) days from the receipt of the payment.

(3) When a security interest has been paid in full and a termination statement or discharge has not been filed, the debtor may petition the Circuit Court in the county of the debtor's residence to order the discharge of the security interest. The debtor shall present written evidence to the Circuit Court that the security interest has been paid in full. If the evidence presented to the Circuit Court proves to the court's satisfaction that the security interest has been paid in full, the court shall order the

county clerk to note the termination on the title and to remove the lien from the Automated Vehicle Information System (AVIS). A copy of the court's order shall immediately be sent to the county clerk in the county where the security interest was originally filed and the county clerk shall discharge the security interest and remove the lien information from AVIS in accordance with the provisions of this section.

(4) Whenever a security interest has been discharged, other than by proceedings under Part 6 of Article 9 of KRS Chapter 355 or similar proceedings, the secured party shall deliver ***an authenticated***~~[a]~~ termination statement in the manner required by KRS 355.9-513 ***and 186A.195*** to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Except as provided in subsection (3) of this section, within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing a security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on the title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements shall be retained in the clerk's files for a period of two (2) years subsequent to the date of filing a statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.

(5) Upon presentation of an owner's title showing a security interest to the county clerk of a county where the termination statement was not delivered, the county clerk shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If a record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If a record of termination has not been entered into the automated system, the county clerk of the county other than where the termination statement was delivered shall not make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

(6) Whenever any secured party repossesses a vehicle titled in Kentucky, for which a security interest is in existence at the time of repossession, and disposes of the vehicle pursuant to the provisions of KRS Chapter 355, he shall present, within fifteen (15) days after such disposition, an affidavit in a form prescribed by the department and a termination statement or proof that a termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, shall be shown on the title issued by the clerk unless the prior secured party has discharged the security interest in the clerk's office or proof of termination is submitted, if the prior security interest was discharged in another clerk's office.

(7) Whenever any vehicle brought into Kentucky is required to be titled and the vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(8) The fees provided for in this section are in addition to any state fee provided for by law.

(9) Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(10) The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner is responsible for ensuring that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 shall be obtained from the clerk by the owner of the vehicle.

(11) Security interests in vehicles sold to or owned by residents of other states shall be perfected in the state of the nonresident and repossession of the vehicle shall be taken pursuant to the laws of that state, unless:

(a) The vehicle is principally operated in Kentucky;

(b) The vehicle is properly titled in Kentucky under KRS Chapter 186A; and

(c) The security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

The Committee on Tourism Development and Energy reported **HB 317, HB 393, HB 627,** with Committee Amendments attached thereto, **HCR 57,** and **HCR 106,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 317, AN ACT designating the official state repertory theater.

WHEREAS, Horse Cave Theatre is located in historic downtown Horse Cave, a silver level Renaissance City, whose citizens wholeheartedly support and are enriched by the theater; and

WHEREAS, the Horse Cave Theatre in Hart County has produced over 130 plays in its 27 years of existence; and

WHEREAS, the theater has brought entertainment to more than half a million people; and

WHEREAS, the theater offers cultural opportunities usually only found in metropolitan areas; and

WHEREAS, the theater continues to maintain high artistic and professional standards in the demanding repertory format; and

WHEREAS, Horse Cave Theatre through its Kentucky Voices program has produced 17 plays by Kentucky playwrights; and

WHEREAS, the theater's Young Performers Production, Student Theatre Workshop, apprentice programs, and acting classes educate local students and encourage aspiring actors and playwrights in pursuit of their dreams; and

WHEREAS, the theater's Educational Programs impact the lives of 10,000 Kentucky students every year; and

WHEREAS, the Horse Cave Theatre has produced "Love Letters" by A. R. Gurney, featuring television and film star Annie Potts; and

WHEREAS, Annie Potts has joined the Horse Cave Theatre Board of Directors; and

WHEREAS, Horse Cave Theatre is one of the few theaters in the United States still producing plays in rotating repertory;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Horse Cave Repertory Theatre located in Hart County, Kentucky, is named and designated as the official state repertory theater.

HB 393, AN ACT relating to handicap access at state-owned marinas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.001 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the Department of Parks.

(2) "Commissioner" means the commissioner of parks.

(3) "Commission" means the State Property and Buildings Commission.

(4) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

(5) "Sanctuary" means a place of refuge where wildlife is maintained and protected from depredation and destruction.

(6) "Wildlife" means all living things that are neither human nor domesticated, including but not limited to mammals, reptiles, amphibians, birds, fishes, crustaceans, mollusks, trees, shrubs, vines, wildflowers, and nonflowering plants.

(7) "Boating access area" means property owned or managed by the department and identified by signs as a public facility for launching and retrieving boats, and includes ramps, courtesy docks, and access roads.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Each state-owned marina intended for public use shall have at least one (1) boating access area that is accessible to persons with physical disabilities, including wheelchair users and those with other mobility impairments, and designated accordingly.

(2) The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for carrying out the provisions of subsection (1) of this section. The

administrative regulations promulgated by the commissioner shall be consistent with the Federal Americans with Disabilities Act of 1990.

SECTION 3. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) Upon application for title and registration of a motor boat of any person with physical disabilities which impair mobility, the county clerk in the county of the person's residence shall issue the person with a disability an accessible parking placard. The fees for the placard shall be consistent with those set forth in KRS Chapter 189.456.

(2) The placard shall be available at all times for inspection on the motorboat for which it is issued, when the motorboat is in operation or docked at a boating access area designated for use by persons with physical disabilities, wheelchair users, or those with mobility impairments.

HB 627, AN ACT relating to the provision of broadband service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Whereas, the General Assembly finds and determines that:

(1) State-of-the-art telecommunications is an essential element to the Commonwealth's initiatives to improve the lives of Kentucky citizens, to create investment, jobs, economic growth, and to support the Kentucky Innovation Act of 2000;

(2) Streamlined regulation in competitive markets encourages investment in the Commonwealth's telecommunications infrastructure;

(3) Consumers in the Commonwealth have many choices in telecommunications services because competition between various telecommunications technologies such as traditional telephony, cable television, Internet and other wireless technologies has become commonplace;

(4) Consumers benefit from market-based competition that offers consumers of telecommunications services the most innovative and economical services; and

(5) Consumer protections against fraud and abuse, for the provision of affordable basic service, and for access to emergency services including enhanced 911 must continue.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

In addition to the definitions in KRS 278.010 and KRS 278.516(2), for Sections 1 to 3 of this Act, the following definitions shall apply:

(1) "ARMIS" means the Automated Reporting Management Information System of the Federal Communications Commission.

(2) "Basic local exchange service" means single, stand-alone, voice-grade, flat-rate residential and single, stand-alone, voice-grade, flat-rate, business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as 911, all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. With respect to local exchange carriers, basic local exchange service also shall include any extended area service routes and extended calling service in existence or ordered by the commission on or before the effective date of this Act.

(3) "Broadband service" means any service that consists of or includes the offering of a high speed capability to transmit information at a rate that is generally not less than one hundred forty-four (144) kilobits per second in at least one direction and that is used to provide access to the Internet or provides computer processing, information content or storage, or protocol conversion service capabilities in combination with the high speed transmission capability.

(4) "Competing local exchange carrier" shall mean any company certified by the commission to provide local exchange telecommunications service in the Commonwealth on or after July 1, 1995.

(5) "Local exchange carrier" means any company certified by the commission to provide local exchange telecommunications service in the Commonwealth on or before June 30, 1995.

(6) "Telephone utility" shall have the same meaning as in KRS 278.010(3)(e) and shall include both local exchange carriers and competing local exchange carriers.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The provision of broadband services shall be market-based and not subject to state administrative regulation. Notwithstanding any other provision of law to the contrary, no agency of the state shall impose or implement any requirement upon a broadband service provider with respect to the following:

(a) The availability of facilities or equipment used to provide broadband services; or

(b) The rates, terms or conditions for, or entry into, the provision of broadband service.

(2) Any requirement imposed upon broadband service in existence as of July 15, 2004 is hereby voided upon enactment of Sections 1 to 3 of this Act. The provisions of this section do not limit or modify the duties of a local exchange carrier or

an affiliate of a local exchange carrier to provide unbundled access to network elements to the extent required under 47 U.S.C. Sections 251 and 252, and any regulations issued by the Federal Communications Commission at rates determined in accordance with the standards established by the Federal Communications Commission pursuant to 47 C.F.R. Sections 51.503 to 51.513, inclusive of any successor regulations. Nothing contained in Sections 1 to 3 of this Act shall be construed to preclude the application of access or other lawful rates and charges to broadband providers. Nothing contained in Sections 1 to 3 of this Act shall preclude, with respect to broadband services, access for those service providers that use or make use of the publicly switched network.

The Committee Amendment No. 1 to **HB 627** is as follows:

HB 627, On page 1, line 23, after "*(1)*" by deleting the remainder of the line and inserting in lieu thereof "*"Broadband" means any service that is used to deliver video or to provide access to the Internet and that consists of the offering of the capability to transmit information at a rate that is generally not less than two hundred (200) kilobits per second in at least one direction; or any service that combines computer processing, information storage, and protocol conversion to enable users to access Internet content and services. Nothing in this definition shall be construed to include any intrastate service, other than digital subscriber line service, tariffed at the commission as of July 15, 2004.*"; and

On page 1, by deleting line 24; and

On page 1, after "*(2)*" by deleting the remainder of the line; and

On page 2, by deleting lines 1 to 18; and

On page 2, line, 19, by deleting "*(5)*"; and

On page 2, by deleting lines 22 to 24.

The Committee Amendment No. 2 to **HB 627** is as follows:

HB 627, On page 3, after line 20, by inserting the following:

"Section 4. (1) There is hereby created the Kentucky Broadband Task Force. The Task Force shall examine the deployment of broadband in the Commonwealth including, but not limited to, the following aspects of provisioning broadband service: regulation, cost, access to facilities, and market competition.

(2) The Kentucky Broadband Task Force shall be a legislative task force consisting of nineteen (19) members as follows:

(1) Three (3) Senate members appointed by the Senate President;

(2) Three (3) Representatives from the House appointed by the Speaker of the House;

(3) Two (2) members representing the Public Service Commission appointed by the Legislative Research Commission from a list of six (6) persons submitted by the chairman of the Public Service Commission;

(4) Eleven (11) members shall be appointed by the Legislative Research Commission as follows:

(a) One (1) member from the Office of the Governor;

(b) Four (4) members representing the incumbent local exchange carriers;

(c) Two (2) members representing the competitive local exchange carriers;

(d) One (1) member representing Internet Service Providers;

(e) One (1) member representing municipal utilities;

(f) One (1) member shall be the Secretary of the Environmental and Public Protection Cabinet; and

(g) One (1) member shall be the Commissioner of Public Protection.

(3) A majority of the members shall constitute a quorum. The President of the Senate and the Speaker of the House each shall appoint a co-chair from the members named from their chambers to the task force. The task force shall meet quarterly and may meet more often upon a call of the co-chair. Staff services shall be provided by the Legislative Research Commission with assistance from the Public Service Commission.

(4) A report of findings and recommendations shall be submitted to the Legislative Research Commission and to the Governor no later than November 15, 2004.

(5) Provisions of this section notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 57, A CONCURRENT RESOLUTION in support of the issuance of a commemorative U. S. Postal Service stamp honoring Kentucky author Harriette Simpson Arnow.

WHEREAS, Harriette Simpson Arnow was born in Wayne County, Kentucky, on July 7, 1908; and

WHEREAS, Ms. Arnow passionately pursued a career in writing beginning in the 1930s; and

WHEREAS, Harriette Simpson Arnow's novels, most notably "Hunter's Horn" and "The Dollmaker," established her as a significant American author, became bestsellers, and garnered critical acclaim; and

WHEREAS, her realistic depiction of the people and culture of the Appalachian region helped counter the stereotypical view of the area; and

WHEREAS, Ms. Arnow's writings during the 1940s and 1950s presaged the women's rights movement by portraying women as strong, self-reliant, and capable;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Citizens' Stamp Advisory Committee of the U.S. Postmaster General is urged to recommend for issuance in 2008, a U.S. Postal Service stamp commemorating the centennial of the birth of Harriette Simpson Arnow and her importance to American literature through her honest and realistic portrayal of women and Appalachian culture.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the U.S. Postmaster General and to the Citizens' Stamp Advisory Committee, c/o Stamp Development, U.S. Postal Service, 475 L'Enfant SW, Room 5670, Washington, DC 20260-2437.

HCR 106, A CONCURRENT RESOLUTION urging transmission-owning utilities to work cooperatively to improve transmission-related reliability with the least amount of impact to agricultural landowners in the Commonwealth.

WHEREAS, the General Assembly recognizes the importance of maintaining Kentucky's electric transmission grid in order to deliver affordable and reliable power; and

WHEREAS, there is a delicate balance between ensuring reliability of the electric transmission grid and protecting the rights of agricultural landowners when locating an electric transmission line; and

WHEREAS, residents of various counties have criticized the location of transmission lines; and

WHEREAS, residents contend that a myriad of transmission lines creates a visual blight, ruins prime cropland, and reduces agricultural land values in Kentucky; and

WHEREAS, efficiencies can be gained and aesthetic goals can be preserved if electric utilities utilize more efficient technologies and optimize the location of electric transmission lines and related facilities; and

WHEREAS, federal and state agencies, including the Kentucky Public Service Commission, indicate no state authority currently has the jurisdiction to regulate the siting of certain electric transmission lines; and

WHEREAS, this absence of state authority may create a disincentive for the electric utility to act in the best interest of the local residents or to preserve agricultural land;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly urges electric utilities to cooperate with each other to meet reliability needs without requiring additional power lines, regardless of whether the proposed construction would improve reliability in an area outside of the utility's service territory.

Section 2. The General Assembly encourages transmission-owning utilities and the Public Service Commission to hold public hearings on cases involving transmission lines that are 138 kilovolts or more. If such a public hearing is held, the commission shall hold the hearing in the county where the line is proposed to be located. If the transmission line is proposed to be located in more than one county, the public hearing shall be held in the county containing the greatest number of residents affected by the siting of the transmission line. At the public hearing all persons residing on or owning property affected by the proposed transmission facility may be heard.

Section 3. A copy of this Resolution shall be sent to the Kentucky Public Service Commission, P.O. Box 615, 211 Sower Blvd., Frankfort, KY 40602-0615, and the following transmission-owning utilities: American Electric Power-Kentucky, 101A Enterprise Dr., P.O. Box 5190, Frankfort, KY 40602; Big Rivers Electric Corporation, 201 Third Street, Henderson, KY, 42420; Cinergy-The Union Light, Heat and Power, 107 Brent Spence Square, Covington, KY 41011; East Kentucky Power Cooperative, 4775 Lexington Rd., P.O. Box 707, Winchester, KY 40392-0707; Kentucky Utilities, One Quality Street, Lexington, KY 40507; and Louisville Gas and Electric, 220 Main Street, P.O. Box 32010, Louisville, KY 40232-2010.

The Committee Substitute to **HCR 106** is as follows:

HCR 106, A CONCURRENT RESOLUTION urging transmission-owning utilities to work cooperatively to improve transmission-related reliability with the least amount of impact to agricultural landowners in the Commonwealth.

WHEREAS, the General Assembly recognizes the importance of maintaining Kentucky's electric transmission grid in order to deliver affordable and reliable power; and

WHEREAS, there is a delicate balance between ensuring reliability of the electric transmission grid, protecting the rights of landowners and preserving agricultural land when locating an electric transmission line; and

WHEREAS, residents of various counties have criticized the location of transmission lines; and

WHEREAS, residents contend that a myriad of transmission lines creates a visual blight, ruins prime cropland, and reduces agricultural land values in Kentucky; and

WHEREAS, efficiencies can be gained if electric utilities utilize more efficient technologies and optimize the location of electric transmission lines and related facilities; and

WHEREAS, federal and state agencies, including the Kentucky Public Service Commission, indicate no state authority currently has the jurisdiction to regulate the siting of certain electric transmission lines;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly urges electric utilities to cooperate with each other in planning for growth and the addition of new electric transmission lines.

Section 2. The General Assembly encourages transmission-owning utilities and the Public Service Commission to hold public hearings on cases involving transmission lines that are 138 kilovolts or more. If such a public hearing is held, the commission shall hold the hearing in the county where the line is proposed to be located. If the transmission line is proposed to be located in more than one county, the public hearing shall be held in the county containing the greatest number of residents affected by the siting of the transmission line. At the public hearing all persons residing on or owning property affected by the proposed transmission facility may be heard.

Section 3. A copy of this Resolution shall be sent to the Kentucky Public Service Commission, P.O. Box 615, 211 Sower Blvd., Frankfort, KY 40602-0615, and the following transmission-owning utilities: American Electric Power-Kentucky, 101A Enterprise Dr., P.O. Box 5190, Frankfort, KY 40602; Big Rivers Electric Corporation, 201 Third Street, Henderson, KY, 42420; Cinergy-The Union Light, Heat and Power, 107 Brent Spence Square, Covington, KY 41011; East Kentucky Power Cooperative, 4775 Lexington Rd., P.O. Box 707, Winchester, KY 40392-0707; Kentucky Utilities, One Quality Street, Lexington, KY 40507; and Louisville Gas and Electric, 220 Main Street, P.O. Box 32010, Louisville, KY 40232-2010.

The Committee on Licensing and Occupations reported **HB 96, SB 47, SB 75,** with Committee Substitute attached thereto, **SB 79,** and **SB 132** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 96, AN ACT relating to engineering.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.160 is amended to read as follows:

(1) Licenses for individuals and permits for business entities shall be valid for not more than two (2) years from the date of issuance, unless renewed.

(2) The executive director shall notify every licensee and permit holder at least one (1) month in advance of the pending expiration date.

  (a) Renewal notices shall be mailed to the licensee or permit holder at their last known address and state the amount of the renewal fee.

  (b) All *license* renewals shall be completed on or before June 30 of the year of expiration.

  (c) *All permit renewals shall be completed on or before December 31 of the year of expiration.*

  (d) Each licensee or permit holder is responsible for notifying the board of any address change.

(3) The failure to renew shall not deprive a licensee or permit holder of the right of renewal, but the fee to be paid for the renewal shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. Any licensee or permit holder who fails to renew within one (1) year after expiration shall furnish the board with:

  (a) Satisfactory evidence of qualification of continued practice. However, the board may require reexamination; and

  (b) If the licensee or permit holder is a professional land surveyor, evidence of completion of continuing professional development hours for professional land surveyors as required by KRS 322.290.

(4) No licensee shall be required to pay renewal fees to the board during the time the licensee is on active duty in the Armed Forces of the United States.

  (a) Any licensee who has previously paid any renewal fee covering a period of time spent on active duty shall, upon filing with the board a copy of his or her discharge, be granted a license renewal without the payment of any fee.

(b) The free renewal shall be for as many license years as the licensee was on active duty and which were covered in whole or in part by the previous payment of a renewal fee.

(c) The continuing professional development requirement for land surveyors under KRS 322.290 shall be waived for those years the licensee was on active duty.

SB 47, AN ACT relating to engineers and professional land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 329A.070 is amended to read as follows:

The provisions of KRS 329A.010 to 329A.090 do not apply to:

(1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;

(2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's bona fide employee, performing duties within the scope of the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky, performing investigative duties limited to matters strictly pertaining to an insurance transaction;

(6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;

(7) A private business employee conducting investigations relating to the company entity by which he or she is employed;

(8) An individual obtaining information or conducting investigations on his or her own behalf;[~~ or~~]

(9) An employee of a private investigator or a private investigating firm who works under the direction of the private investigator or the private investigating firm for less than three hundred fifty (350) hours per year***; or***

(10) A professional engineer, a professional land surveyor, or a professional engineer's or professional land surveyor's bona fide employee, performing duties within the scope of practice of engineering or land surveying.

SB 75, AN ACT relating to private investigators and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 329A.020 is amended to read as follows:

(1) The Kentucky Board of Licensure for Private Investigators is hereby created.

(2) The board shall consist of seven (7) members appointed by the Governor.

 (a) One (1) member shall be an attorney from the Office of the Attorney General to be designated by the Attorney General;

 (b) One (1) member shall be a municipal police officer of the rank of captain or above;

 (c) One (1) member shall be a county sheriff;

 (d) Three (3) members shall each have been private investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and

 (e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of private investigating.

(3) All members shall be residents of this state and possess good moral character.

(4) The original members of the board shall be appointed by no later than January 1, 2003, as follows:

 (a) One (1) member to a one (1) year term;

 (b) Two (2) members to a two (2) year term;

 (c) Two (2) members to a three (3) year term; and

 (d) Two (2) members to a four (4) year term.

(5) After the initial appointments to the board, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) No member may serve more than two (2) full consecutive terms.

(8) ***No member shall continue to serve if the member no longer meets the qualifications required under subsections (2) and (3) of this section.***

(9) The three (3) board members who are private investigators and the member at large shall receive the sum of one hundred dollars ($100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(10)[~~(9)~~] The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the membership of the board.

(11)[~~(10)~~] The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(12)[~~(11)~~] Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(13)[~~(12)~~] The board may purchase professional liability insurance for the board members and agents and staff of the board.

Section 2. KRS 329A.025 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS 329A.010 to 329A.090 and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The board shall:

(a) Implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

(b) Promulgate administrative regulations to establish fees which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of KRS 329A.010 to 329A.090;

(c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating, including but not limited to the following subject areas:

1. Federal and state constitutional principles;
2. Court decisions related to activities which could result in liability for the invasion of privacy or other activities;
3. Eavesdropping and related offenses, assault and related offenses, search and seizure laws, and laws regarding unlawful access to a computer;
4. General weapons use and concealed weapons laws;
5. Additional state criminal laws and related procedures that are relevant to the practice of private investigating; and
6. Additional subject areas as determined by the board; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any persons it deems necessary to carry on the work of the board. The board may define their duties and fix their compensation;

(c) Develop or sponsor at least six (6) hours of continuing professional education annually;

(d) Approve and certify a forty (40) hour training class covering the subject areas of the licensing examination;

(e) Renew licenses and require continuing professional education as a condition for renewal;

(f) ***Waive the examination requirement for any applicant licensed in a reciprocal state as prescribed in subsection (3)(m) of this section, who is licensed in good standing in that state and meets all of the other requirements of Section 3 of this Act;***

(g) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;

(h)[~~(g)~~] Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 329A.010 to 329A.090;

(i)[~~(h)~~] Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;

(j)[~~(i)~~] Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS

Chapter 13B;

(k)[~~(j)~~] Utilize mediation as a technique to resolve disciplinary matters;

(l)[~~(k)~~] Seek injunctive relief in the Circuit Court of the county where the alleged unlawful practice occurred to stop the unlawful practice of private investigating by unlicensed persons or companies; and

(m)[~~(l)~~] Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigation companies and private investigators who meet or exceed the qualifications established in KRS 329A.010 to 329A.090 to operate across state lines under mutually acceptable terms.

Section 3. KRS 329A.035 is amended to read as follows:

(1) An application for a private investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;
2. Date and place of birth;
3. Social Security number;
4. All residences during the past five (5) years;
5. All employment or occupations engaged in during the past five (5) years;
6. Three (3) sets of classifiable fingerprints; ***and***

7.[~~Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and~~

~~8.~~] Any other information as the board may reasonably require by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(c) If the applicant intends to conduct fire or arson investigations, proof of current national certification from the National Association of Fire Investigators or the International Association of Arson Investigators shall be filed with the board in addition to the information required in paragraph (a) of this subsection.

(2) An application for an investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:
    a. The owner, if the company is a sole proprietorship;
    b. Each partner, if the company is a partnership; or
    c. The qualifying agent, if the company is a corporation;
2. The name under which the company intends to do business;
3. The address of the principal place of business and any branch offices of the company within this state; and
4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;
2. The state and date of incorporation;
3. The date the corporation qualified to do business in this state;
4. The address of the corporate headquarters, if located outside of this state;
5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and
6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;
2. Each partner, if the applicant is a partnership; or
3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license or owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Have a high school education or its equivalent;

(d) Not receive a license until the earlier of:

1. The expiration of ten (10) years from the applicant's release from a sentence imposed by any state or

territory of the United States or the federal government for the commission of a felony, including a sentence of confinement or time served on probation, parole, or other form of conditional release or discharge; or

2. The date the applicant received a restoration of the applicant's civil rights;

(e) Not have been convicted of a misdemeanor involving moral turpitude or for which dishonesty is a necessary element within the previous five (5) years;

(f) Not have been dishonorably discharged from any branch of the Armed Forces of the United States;

(g) Not have had his or her certification as a peace officer revoked in this or another state;

(h) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(i) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within the three (3) year period immediately preceding the date on which the application is submitted;

(j) Not chronically and habitually use alcoholic beverages as evidenced by:

1. The applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) year period immediately preceding the date on which the application is submitted; or

2. The applicant having been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(k) Not chronically and habitually use alcoholic beverages or drugs to the extent that his or her normal faculties are impaired;

(l) Be of good moral character;

(m) Pass an examination administered by the board in accordance with KRS 329A.025(2(c); and

(n) Submit proof of coverage which meets the following requirements:

1. Is written by an insurance company which is lawfully engaged to provide insurance coverage in Kentucky;

2. Provides for a combined single-limit policy in the amount of at least two hundred fifty thousand dollars ($250,000); and

3. Insures for liability all of the applicant's employees while acting in the course of their employment.

Private investigators who limit their practice exclusively to working under the supervision ***and as employees*** of an attorney who is licensed to practice law in this state are exempted from the requirement of this paragraph.

(4) The board shall maintain the confidentiality of information relating to the licensee ***or applicant***, except that the board may provide this information to local, state, or federal law enforcement agencies.

(5) Upon inquiry by any individual or entity, the board or the board's administrative staff shall provide or confirm the license status of any private investigator or private investigating company.

Section 4. KRS 329A.040 is amended to read as follows:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars ($100) and not more than ***four***[~~five~~] hundred dollars ***($400)***[~~($500)~~], as established by the board by promulgation of administrative regulations, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints as appropriate, to the Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in

private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

(3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the licensee.

(4) For purposes of this section and Section 3 of this Act, any company whose workforce is comprised of no more than one (1) private investigator shall only be required to have an individual private investigator's license. If at anytime the workforce of such a company increases, the company shall notify the board of the workforce increase and shall seek a company license in addition to the individual private investigator's license.

Section 5. KRS 329A.070 is amended to read as follows:

The provisions of KRS 329A.010 to 329A.090 do not apply to:

(1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;

(2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's bona fide employee ***or authorized agent***, performing duties within the scope of the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky, performing investigative duties limited to matters strictly pertaining to an insurance transaction;

(6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;

(7) A private business employee conducting investigations relating to the company entity by which he or she is employed;

(8) An individual obtaining information or conducting investigations on his or her own behalf; or

(9) An employee of a private investigator or a private investigating firm who works under the direction of the private investigator or the private investigating firm for less than ***two hundred forty (240)***[~~three hundred fifty (350)~~] hours per year. ***The board shall promulgate administrative regulations to establish a method of verification of the number of hours worked.***

Section 6. KRS 329A.080 is amended to read as follows:

Any person violating KRS 329A.015 shall be guilty of a Class A misdemeanor ***for the first offense and a Class D felony for a second or subsequent offense***.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Any private investigator who conducts fire or arson investigations in the state of Kentucky shall be:

(a) Licensed in accordance with Section 2 of this Act; and

(b) Certified by the National Association of Fire Investigators or the International Association of Arson Investigators as a fire and explosion investigator.

(2) Upon revocation of his or her certification by either the National Association of Fire Investigators or the International Association of Arson Investigators, a private investigator who conducts fire or arson investigations shall cease the practice of arson investigation.

(3) Fire or arson investigation by a licensee under this chapter shall be prohibited without certification.

Section 8. (1) Notwithstanding KRS 7.123 to the contrary, any private investigating firm that has had its headquarters in the Commonwealth of Kentucky for at least two (2) years prior to July 15, 2002, shall receive a license issued under KRS Chapter 329A automatically upon filing the appropriate application and paying the appropriate fee to the board within sixty (60) days after the effective date of this Act.

(2) Notwithstanding KRS 7.123 to the contrary, any person actively engaged in full-time or part-time investigator work in this state as a private investigator or as an investigator for a law enforcement agency for a continuous period of at least two (2) years prior to July 15, 2002, shall receive a license as a private investigator issued under KRS Chapter 329A automatically upon:

(a) Filing an application with the board within sixty (60) days after the effective date of this Act, including supporting documentation; and

(b) Paying the licensure fee.

Section 9. Any person licensed in accordance with Section 2 of this Act shall have his or her renewal fee under KRS

329A.045 decreased in an amount that reflects the difference between the initial fee paid to the board and the fee established in Section 4 of this Act, if the initial fee paid by the licensee was in excess of the fee established in Section 4 of this Act. This decrease in the renewal fee shall be limited to the first renewal of such a licensee made after the effective date of this Act.

Section 10. Whereas it is necessary for the board to begin operating under these provisions as soon as possible in order to effectively regulate the private investigator industry, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Substitute to **SB 75** is as follows:

SB 75, AN ACT relating to private investigators and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 329A.020 is amended to read as follows:

(1) The Kentucky Board of Licensure for Private Investigators is hereby created.

(2) The board shall consist of seven (7) members appointed by the Governor.

  (a) One (1) member shall be an attorney from the Office of the Attorney General to be designated by the Attorney General;

  (b) One (1) member shall be a municipal police officer of the rank of captain or above;

  (c) One (1) member shall be a county sheriff;

  (d) Three (3) members shall each have been private investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and

  (e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of private investigating.

(3) All members shall be residents of this state and possess good moral character.

(4) The original members of the board shall be appointed by no later than January 1, 2003, as follows:

  (a) One (1) member to a one (1) year term;

  (b) Two (2) members to a two (2) year term;

  (c) Two (2) members to a three (3) year term; and

  (d) Two (2) members to a four (4) year term.

(5) After the initial appointments to the board, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) No member may serve more than two (2) full consecutive terms.

(8) ***No member shall continue to serve if the member no longer meets the qualifications required under subsections (2) and (3) of this section.***

(9) The three (3) board members who are private investigators and the member at large shall receive the sum of one hundred dollars ($100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(10)[~~(9)~~] The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the membership of the board.

(11)[~~(10)~~] The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(12)[~~(11)~~] Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(13)[~~(12)~~] The board may purchase professional liability insurance for the board members and agents and staff of the board.

Section 2. KRS 329A.025 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS 329A.010 to 329A.090 and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The board shall:

  (a) Implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

  (b) Promulgate administrative regulations to establish fees which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of KRS 329A.010 to 329A.090;

  (c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating, including but not limited to the following subject areas:

1. Federal and state constitutional principles;

2. Court decisions related to activities which could result in liability for the invasion of privacy or other activities;

3. Eavesdropping and related offenses, assault and related offenses, search and seizure laws, and laws regarding unlawful access to a computer;

4. General weapons use and concealed weapons laws;

5. Additional state criminal laws and related procedures that are relevant to the practice of private investigating; and

6. Additional subject areas as determined by the board; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any persons it deems necessary to carry on the work of the board. The board may define their duties and fix their compensation;

(c) Develop or sponsor at least six (6) hours of continuing professional education annually;

(d) Approve and certify a forty (40) hour training class covering the subject areas of the licensing examination;

(e) Renew licenses and require continuing professional education as a condition for renewal;

(f) ***Waive the examination requirement for any applicant licensed in a reciprocal state as prescribed in subsection (3)(m) of this section, who is licensed in good standing in that state and meets all of the other requirements of Section 3 of this Act;***

(g) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;

(h)[~~(g)~~] Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 329A.010 to 329A.090;

(i)[~~(h)~~] Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;

(j)[~~(i)~~] Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(k)[~~(j)~~] Utilize mediation as a technique to resolve disciplinary matters;

(l)[~~(k)~~] Seek injunctive relief in the Circuit Court of the county where the alleged unlawful practice occurred to stop the unlawful practice of private investigating by unlicensed persons or companies; and

(m)[~~(l)~~] Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigation companies and private investigators who meet or exceed the qualifications established in KRS 329A.010 to 329A.090 to operate across state lines under mutually acceptable terms.

Section 3. KRS 329A.035 is amended to read as follows:

(1) An application for a private investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;

2. Date and place of birth;

3. Social Security number;

4. All residences during the past five (5) years;

5. All employment or occupations engaged in during the past five (5) years;

6. Three (3) sets of classifiable fingerprints; ***and***

7.[~~Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and~~

~~8.~~] Any other information as the board may reasonably require by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(c) If the applicant intends to conduct fire or arson investigations, proof of current national certification from the National Association of Fire Investigators or the International Association of Arson Investigators shall be filed with the board in addition to the information required in paragraph (a) of this subsection.

(2) An application for an investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

a. The owner, if the company is a sole proprietorship;

b. Each partner, if the company is a partnership; or

c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state; and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and

6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license or owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Have a high school education or its equivalent;

(d) Not receive a license until the earlier of:

1. The expiration of ten (10) years from the applicant's release from a sentence imposed by any state or territory of the United States or the federal government for the commission of a felony, including a sentence of confinement or time served on probation, parole, or other form of conditional release or discharge; or

2. The date the applicant received a restoration of the applicant's civil rights;

(e) Not have been convicted of a misdemeanor involving moral turpitude or for which dishonesty is a necessary element within the previous five (5) years;

(f) Not have been dishonorably discharged from any branch of the Armed Forces of the United States;

(g) Not have had his or her certification as a peace officer revoked in this or another state;

(h) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(i) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within the three (3) year period immediately preceding the date on which the application is submitted;

(j) Not chronically and habitually use alcoholic beverages as evidenced by:

1. The applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) year period immediately preceding the date on which the application is submitted; or

2. The applicant having been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(k) Not chronically and habitually use alcoholic beverages or drugs to the extent that his or her normal faculties are impaired;

(l) Be of good moral character;

(m) Pass an examination administered by the board in accordance with KRS 329A.025(2(c); and

(n) Submit proof of coverage which meets the following requirements:

1. Is written by an insurance company which is lawfully engaged to provide insurance coverage in Kentucky;

2. Provides for a combined single-limit policy in the amount of at least two hundred fifty thousand dollars ($250,000); and

3. Insures for liability all of the applicant's employees while acting in the course of their employment.

Private investigators who limit their practice exclusively to working under the supervision ***and as employees*** of an attorney who is licensed to practice law in this state are exempted from the requirement of this paragraph.

(4) The board shall maintain the confidentiality of information relating to the licensee ***or applicant***, except that the board may provide this information to local, state, or federal law enforcement agencies.

(5) Upon inquiry by any individual or entity, the board or the board's administrative staff shall provide or confirm the license status of any private investigator or private investigating company.

Section 4. KRS 329A.040 is amended to read as follows:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars ($100) and not more than ***four***[~~five~~] hundred dollars ***($400)***[~~($500)~~], as established by the board by promulgation of administrative regulations, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints as appropriate, to the Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

(3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the licensee.

(4) For purposes of this section and Section 3 of this Act, any company whose workforce is comprised of no more than one (1) private investigator shall only be required to have an individual private investigator's license. If at anytime the workforce of such a company increases, the company shall notify the board of the workforce increase and shall seek a company license in addition to the individual private investigator's license.

Section 5. KRS 329A.070 is amended to read as follows:

The provisions of KRS 329A.010 to 329A.090 do not apply to:

(1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;

(2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's bona fide employee, performing duties within the scope of the practice of law ***or***

authorized agent with duties limited to document and record retrieval or witness interviews;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky, performing investigative duties limited to matters strictly pertaining to an insurance transaction;

(6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;

(7) A private business employee conducting investigations relating to the company entity by which he or she is employed;

(8) An individual obtaining information or conducting investigations on his or her own behalf; or

(9) An employee of a private investigator or a private investigating firm who works under the direction of the private investigator or the private investigating firm for less than ***two hundred forty (240)***[~~three hundred fifty (350)~~] hours per year. ***The board shall promulgate administrative regulations to establish a method of verification of the number of hours worked.***

Section 6. KRS 329A.080 is amended to read as follows:

Any person violating KRS 329A.015 shall be guilty of a Class A misdemeanor ***for the first offense and a Class D felony for a second or subsequent offense***.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Any private investigator who conducts fire or arson investigations in the state of Kentucky shall be:

(a) Licensed in accordance with Section 2 of this Act; and

(b) Certified by the National Association of Fire Investigators or the International Association of Arson Investigators as a fire and explosion investigator.

(2) Upon revocation of his or her certification by either the National Association of Fire Investigators or the International Association of Arson Investigators, a private investigator who conducts fire or arson investigations shall cease the practice of fire or arson investigation.

(3) Fire or arson investigation by a licensee under this chapter shall be prohibited without certification.

Section 8. (1) Notwithstanding KRS 7.123 to the contrary, any private investigating firm that has had its headquarters in the Commonwealth of Kentucky for at least two (2) years prior to July 15, 2002, shall receive a license issued under KRS Chapter 329A automatically upon filing the appropriate application and paying the appropriate fee to the board within sixty (60) days after the effective date of this Act.

(2) Notwithstanding KRS 7.123 to the contrary, any person actively engaged in full-time or part-time investigator work in this state as a private investigator or as an investigator for a law enforcement agency for a continuous period of at least two (2) years prior to July 15, 2002, shall receive a license as a private investigator issued under KRS Chapter 329A automatically upon:

(a) Filing an application with the board within sixty (60) days after the effective date of this Act, including supporting documentation; and

(b) Paying the licensure fee.

Section 9. Any person licensed in accordance with Section 2 of this Act shall have his or her renewal fee under KRS 329A.045 decreased in an amount that reflects the difference between the initial fee paid to the board and the fee established in Section 4 of this Act, if the initial fee paid by the licensee was in excess of the fee established in Section 4 of this Act. This decrease in the renewal fee shall be limited to the first renewal of such a licensee made after the effective date of this Act.

Section 10. Whereas it is necessary for the board to begin operating under these provisions as soon as possible in order to effectively regulate the private investigator industry, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 79, AN ACT relating to alcoholic beverage wholesalers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.170 is amended to read as follows:

(1) A wholesaler may sell, deliver and transport distilled spirits and wine at wholesale, and from the licensed premises only, to:

(a) Other wholesalers.

(b) Retailers.

(c) A point out of the state to persons authorized by the law of the state of their residence, and by the United States government if located in the United States, to receive the distilled spirits and wine.

(2) A wholesaler may purchase distilled spirits and wine at wholesale from licensed distillers, rectifiers, vintners or other wholesalers and from nonresidents authorized by the law of the states of their residence, and by the United States government if located in the United States, to make the sales. A wholesaler may not transport distilled spirits and wine from any point to his own licensed premises, except as provided in subsection (4) of KRS 243.200.

(3) No wholesaler shall sell or contract to sell, give away or deliver any distilled spirits or wine to any person in Kentucky who is not licensed to receive, possess, distribute or sell distilled spirits and wine, and in no event shall he sell or contract to sell, give away or deliver any distilled spirits or wine to any consumer. This section does not permit sales or deliveries of distilled spirits in Kentucky by licensed wholesalers to nonresidents who are not licensed by their own states.

(4) A wholesaler may extend credit on distilled spirits and wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days. When the thirty (30) day period has passed without payment in full, no wholesaler shall sell to the licensee except for cash on delivery.

SB 132, AN ACT relating to interior designers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323.410 is amended to read as follows:

(1) The board shall issue a certificate as a certified interior designer and a certificate number to any person who:
  (a) Files an application with the board on a form prescribed by the board;
  (b) Submits written proof that the person has successfully passed the NCIDQ examination and therefore has met the education and internship requirements established by NCIDQ;
  (c) Meets the standards of education, experience, and testing established by the board under KRS 323.406(1); and
  (d) Submits the required certification fee to the board.

(2) No person who has violated KRS 323.402 shall file an application with the board for a period of five (5) years.

(3) For a period of ***four (4)***[~~two (2)~~] years after July 15, 2002, the board may issue a certificate as a certified interior designer and a certificate number to a person who does not meet the examination requirement under subsection (1)(b) of this section, but who can document:
  (a) Ten (10) years of experience as an interior designer or eight (8) years of experience as an interior designer and two (2) years of interior design education that is acceptable to the board; and
  (b) Successful completion of the Building and Barrier-Free Code Life Safety section of the NCIDQ examination.

(4) The board, upon proper application under this section, shall issue a certificate as a certified interior designer and a certificate number to a person credentialed as an interior designer under the laws of any other country or state or territory of the United States, provided that at the time the license or certificate was issued the applicant met the requirements of subsection (1) of this section.

Calendar

HCR 206, 223, SB 55, 83, HB 423, SB 37, 154, 222, 224, SJR 3, HB 586, 619, 669, 703, HCR 198, SB 109, 142, HB 677, SB 34, SB 122, HB 351, 569, 611, 621, 626, 683, HJR 207, HCR 210, 215, and **SB 150** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Marzian moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Marzian moved the adoption of the following **Legislative Citation No. 73**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the Sacred Heart Academy Volleyball Team whose outstanding performance during the 2003 season has resulted in this talented group of athletes winning both the Louisville and Jefferson County Invitational Tournaments; runner-up honors in the 23rd District and championship honors in the Region VII tournaments; finishing the season with a phenomenal record of 37-5; and, garnering the coveted State Championship title for the first time in school history. These achievements are the result of the extraordinary effort, perseverance and hard work put forth by the members and coaching staff of this team, who are applauded for demonstrating such dedication in pursuit of these noteworthy accomplishments. The members of this honorable body are delighted to join with Representative Mary Lou Marzian in commending the members of the Sacred Heart Academy Volleyball Team for the great honor and acclaim that they have brought to the Jefferson County community and this Commonwealth and in extending best wishes for continued monuments of athletic success. Done in Frankfort, Kentucky, this tenth day of March, in the year two thousand and four.

Legislative Citation No. 73 was adopted without objection.

Representative Weaver moved that the rules be suspended to grant floor privileges to the family of Sergeant Daria K. Potter and the family of Sergeant Gary Coleman. The families were presented a Kentucky State Flag.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 319** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:30 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 569, 586, 619, 683, HCR 198, 206, 210, 215, 223, HJR 207, HB 135, HB 483, 56, 67, 115, 502, 516, 529, 575, 580,** and **587** have been posted for passage in the Regular Orders of the Day for March 11, 2004.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 524**

Orders of the Day

HB 650, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Substitute to **HB 650**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 650**. Agreed.

Representative Bruce moved that **HB 650**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 2**. (See March 10, 2004, roll call on **HB 650** - Appendix.)

HB 650, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 650**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 514, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of the Committee Substitute to **HB 514**. Agreed.

Representative Miller moved that **HB 514**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 3**. (See March 10, 2004, roll call on **HB 514** - Appendix.)

HB 514, by way of Committee Substitute, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 514**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 174 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HR 174** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 10, 2004, roll call on **HR 174** - Appendix.)

HR 174 was adopted.

Representative Rasche moved that the vote by which **HR 174** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 596 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 596** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 10, 2004, roll call on **HB 596** - Appendix.)

HB 596 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 596** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 161, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HCR 161**. Agreed.

Representative Gray moved that **HCR 161**, as amended, be adopted.

On the roll call the vote was: **Yeas 85, Nays 2**. (See March 10, 2004, roll call on **HCR 161** - Appendix.)

HCR 161, as amended, was adopted.

Representative Gray moved that the vote by which **HCR 161**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 189 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HR 189** be adopted.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 10, 2004, roll call on **HR 189** - Appendix.)

HR 189 was adopted.

Representative Burch moved that the vote by which **HR 189** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 234 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 234** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 10, 2004, roll call on **HB 234** - Appendix.)

HB 234 was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 234** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 319** was delivered to the Senate and signed by the President. Delivered to the Governor on March 10, 2004, at 3:30 p.m.

Orders of the Day (Continued)

HB 588, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bather moved the adoption of Floor Amendment No. 1 to **HB 588**. Agreed.

Representative Bather moved that **HB 588**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 10, 2004, roll call on **HB 588** - Appendix.)

HB 588, as amended, was passed and the title agreed to.

Representative Bather moved that the vote by which **HB 588**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 25, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 25**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 25**. Agreed.

Representative Lindsay moved that **HB 25**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 10, 2004, roll call on **HB 25** - Appendix.)

HB 25, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 25**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 118** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:45 p.m.)

Orders of the Day (Continued)

HB 595, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 595**. Agreed.

Representative Marzian moved that **HB 595**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 77, Nays 15**. (See March 10, 2004, roll call on **HB 595** - Appendix.)

HB 595, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 595**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 597 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 597** be passed.

On the roll call the vote was: **Yeas 46, Nays 35**. (See March 10, 2004, roll call on **HB 597** - Appendix.)

HB 597 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 597** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 598, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 598**. Agreed.

Representative Palumbo moved that **HB 598**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 34, Nays 54**. (See March 10, 2004, roll call on **HB 598** - Appendix.)

HB 598, was defeated.

HB 459, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 459** be passed.

Representative Comer moved the adoption of Floor Amendment No. 2 to **HB 459**.

On the roll call on Floor Amendment No. 2 the vote was: **Yeas 41, Nays 44**. (See March 10, 2004, roll call on **HB 459** - Appendix.)

Floor Amendment No. 2 to **HB 459** was defeated.

Representative Collins moved that **HB 459** be passed.

On the roll call the vote was: **Yeas 61, Nays 27**. (See March 10, 2004, roll call on **HB 459** - Appendix.)

HB 459 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 459** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on **SB 248**. Agreed.

Representative Adkins moved that the rules be suspended to waive the posting requirement retroactively on **HR 219**. Agreed.

Representative Adkins moved that the rules be suspended, that **HB 627** be reassigned to the Committee on Tourism Development and Energy, and that the posting requirement on **HB 627** be waived. Agreed.

Representative Farmer moved the adoption of the following **HR 234**:

HR 234, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rachel Elaine Sutherland.

It is with heavy hearts and deep sadness that we learn of the premature passing of Rachel Elaine Sutherland, and we pause in silent reverence for her soul.

WHEREAS, Rachel Elaine Sutherland was the loving daughter of the Reverend Alan Sutherland and Elaine Moran Sutherland; she was the loving sister of a brother, James Alan Sutherland of Winchester; and she also leaves behind her paternal grandparents, Don and Alma Sutherland of Middlesbrough, England; and her maternal grandmother, Edna Moore of Hessle, England; and

WHEREAS, Rachel Elaine Sutherland was a devout member of Emmanuel Episcopal Church in Winchester, where her father was a former pastor, and where she was a member of the Episcopal Diocese of Lexington Youth Commission and the Episcopal Province IV Youth Board; and

WHEREAS, Rachel Elaine Sutherland was a 2003 graduate of George Rogers Clark High School in Winchester, where she excelled in academics; she was a 2002 Kentucky Governor's Scholar and was a member of the National Honor Society and on the National Honor Roll; she was president of her high school freshman, sophomore, junior, and senior classes; she was Miss Freshman 2000, Miss Sophomore 2001, Miss Junior 2002, and she was named to homecoming courts in 1999, 2000, and 2002; and

WHEREAS, Rachel Elaine Sutherland was active in several clubs and charitable causes; she organized the American Anti-Slavery Freedom March in 2003 in Northern Kentucky; and she was instrumental in the construction of the Winchester Clothing Bank, and she organized the Sierra Leone Clothing Drive in Clark County in 2002; and

WHEREAS, Rachel Elaine Sutherland also excelled in the sport of Soccer; she was a four-year first-team academic All-State girls' varsity soccer player; she was the recipient of the Coach's Award, was named to the 2001 and 2002 all-district teams and the 2002 all-region team, and she was a 2001 all-state honorable mention and 2002 second team all-stater; and she was a United States Soccer Federation certified soccer referee; and

WHEREAS, at the time of her premature passing, Rachel Elaine Sutherland was a student at Manhattanville College in New York City, where she was majoring in international politics and psychology; and she had aspirations of working for organizations that helped people; and

WHEREAS, in the aftermath of this tragic accident, we are reminded of the grief and suffering afflicted upon the family and friends of Rachel Elaine Sutherland, how precious she was to her loved ones, and how her loved ones have been denied the opportunity of witnessing her reach her full potential; and we are also reminded that a life spent worthily should be measured by deeds, not years, and through her compassion and genuine love and concern for her fellow man, Rachel Elaine Sutherland is worthy of the highest commendation; and

WHEREAS, the premature passing of Rachel Elaine Sutherland has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the premature passing of Rachel Elaine Sutherland, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Rachel Elaine Sutherland.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the family of Rachel Elaine Sutherland, 111 Fontaine Boulevard, Winchester, Kentucky 40391.

There being no objection, **HR 234** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 236, by Representative McKee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Claude Lee Hixson.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **SB 64, HB 292, 340, 405, 654**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 318**, **HB 390**, with Committee Substitute attached thereto, **HB 409**, with Committee Substitute attached thereto, and **SB 163**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 318, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 516.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Written instrument" means any instrument or article containing written or printed matter or its equivalent used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

(2) "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.

(3) "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.

(4) To "falsely alter" a written instrument means to change, without the authority of anyone entitled to grant it, a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

(5) To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

(6) To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof.

(7) "Forged instrument" means a written instrument which has been falsely made, completed or altered.

(8) "Coin machine" means a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed:

(a) To receive a coin or bill or token made for the purpose; and

(b) In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or service.

(9) "Slug" means an object or article which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper substitute for a genuine coin, bill or token.

(10) "Value of the slug" means the value of the coin, bill or token for which it is capable of being substituted.

(11) "Academic degree" means a document such as a degree or certification of completion of a degree, course work, or degree credit, including a transcript, that provides evidence of or demonstrates completion of a course of instruction, or course work which is issued by a bona fide elementary school, secondary school, postsecondary educational institution, vocational, technical or professional educational institution, government or private agency which is:

(a) Licensed or granted a permit to operate by the Commonwealth of Kentucky;

(b) Licensed or granted a permit to operate by a state of the United States;

(c) Recognized by the United States Secretary of Education;

(d) Accredited by an accrediting body recognized by the United States Secretary of Education or by a state of the United States;

(e) Operated by a public agency of federal, state, or local government or an instrumentality thereof; or

(f) Operated by, licensed by or granted a permit by, or recognized by the government of a foreign nation.

Section 2. KRS 516.030 is amended to read as follows:

(1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:

(a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

(b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee;[~~or~~]

(c) A written instrument officially issued or created by a public office, public employee or governmental agency***; or***

(d) An academic degree.

(2) Forgery in the second degree is a Class D felony.

HB 390, AN ACT relating to criminal law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) A peace officer who interrogates a person who is suspected of committing a felony offense shall utilize audio or video equipment to record the entire interrogation, and shall inform the suspect that the interrogation is being recorded.

(2) If the suspect confesses to a felony offense, makes an admission that may be used in a prosecution of the suspect for a felony offense, recants his or her confession, or contradicts any admission made to a peace officer, the recording is admissible in court in a prosecution of the suspect for a felony offense.

(3) The failure of a peace officer to record an interrogation of a person suspected of a felony offense renders any confession or other admission made by the suspect during the unrecorded interrogation inadmissible in a trial of the suspect for the felony offense for which the suspect has confessed or made an admission.

(4) The entire recording shall be made available to the defendant and his or her counsel a reasonable time prior to trial to allow for the preparation of an adequate defense, and may be shown by the defendant at trial regardless of whether it was introduced by the Commonwealth.

(5) Recordings shall be used for official purposes only including:

(a) Viewing in court;

(b) Viewing by the prosecution and defense in preparation for trial; and

(c) Viewing for purposes of administrative reviews and official administrative proceedings.

Recordings shall otherwise be considered as confidential records.

(6) The audio video recording taken in accordance with this section shall, upon order of the Circuit Court having jurisdiction, be destroyed after the later of the following:

(a) Fourteen (14) months after conviction, if there is no appeal of any felony case filed as a result of the recording;

(b) Fourteen (14) months after a decision has been made not to prosecute any case upon which an arrest has been made as a result of the recording;

(c) After all appeals have been exhausted arising from any felony case filed as a result of the recording; or

(d) At the conclusion of the exhaustion of all appeals arising from any law enforcement agency administrative proceedings arising from the recording.

(7) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

The Committee Substitute to **HB 390** is as follows:

HB 390, AN ACT relating to criminal law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) A custodial interrogation by a peace officer, prosecutor, or other law enforcement agent of a person who is under suspicion or investigation for the commission of a capital offense shall be electronically recorded in its entirety by digital media, videotape, or audio tape. At the commencement of the interrogation, the person shall be informed that the interrogation is being recorded.

(2) If the suspect confesses to an offense, makes an admission that may be used in the prosecution of the suspect, recants his or her confession, or contradicts any admission made during the interrogation, the recording may be admitted in court if found to be otherwise admissible under the rules of evidence and constitutional or statutory law.

(3) If the custodial interrogation has not been electronically recorded in its entirety, any confession, admission, or statement made by the person during the interrogation shall be inadmissible against the person in any trial or sentencing hearing, unless the Commonwealth proves, by clear and convincing evidence that:

(a) The failure to electronically record an entire interrogation electronically was the result of equipment failure and obtaining replacement equipment was not feasible;

(b) The person refused to have his or her interrogation electronically recorded and the refusal itself was electronically recorded;

(c) The statement was obtained in another state and was obtained by a law enforcement agent of that state in compliance with the laws of that state;

(d) The statement was made in open court or before a grand jury; or

(e) The statement was made spontaneously and concurrently with the person's arrest or offense and did not stem from custodial interrogation.

(4) A true, complete, and accurate copy of the entire recording shall be made available to the attorney representing the person no later than thirty (30) days prior to any proceeding in which the interrogation or statements made during the interrogation may be relevant evidence.

(5) Recordings shall be used for official purposes only, including:

(a) Viewing and playing in court;

(b) Viewing and playing by the prosecution and defense in preparation for any criminal proceeding;

(c) Viewing and playing for purposes of administrative reviews and official administrative proceedings;

(d) Viewing and playing for purpose of education or training of law enforcement personnel; and

(e) Making available for inspection and copying by the news media upon their being played or viewed in court, or upon the conclusion of any prosecution or investigation of the person.

(6) An electronic recording taken in accordance with this section shall not be destroyed except upon a motion by a party and an order of the court made after a hearing in open court with at least thirty (30) days advance notice to the person and to his or her attorney, but under no circumstances before all the convictions of the defendant or any codefendant become final and all direct and habeas corpus appeals are exhausted.

(7) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

HB 409, AN ACT relating to placing inmates on home incarceration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Any Class D felon or Class C felon shall, at the discretion of the commissioner, be eligible to serve the remainder of his or her sentence outside the walls of the detention facility under terms of home incarceration using an approved monitoring device as defined in KRS 532.200, if the felon:

(a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony as defined by the Department of Corrections classification system; or

2. Has not been convicted of, pled guilty to, or entered an Alford plea to a sex crime as defined in KRS 17.500; and

(b) Has six (6) months or less to serve on his or her sentence.

(2) A person who is placed under terms of home incarceration pursuant to subsection (1) of this section shall remain in the custody of the Department of Corrections. Any unauthorized departure from the terms of home incarceration may be prosecuted as an escape pursuant to KRS Chapter 520.

(3) The Department of Corrections shall promulgate administrative regulations to implement the provisions of this section.

The Committee Substitute to **HB 409** is as follows:

HB 409, AN ACT relating to placing inmates on home incarceration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Any Class D felon or Class C felon who is serving a sentence in a state operated prison shall, at the discretion of the commissioner, be eligible to serve the remainder of his or her sentence outside the walls of the detention facility under terms of home incarceration using an approved monitoring device as defined in KRS 532.200, if the felon:

(a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony as defined by the Department of Corrections classification system; or

2. Has not been convicted of, pled guilty to, or entered an Alford plea to a sex crime as defined in KRS 17.500; and

(b) Has sixty (60) days or less to serve on his or her sentence;

(c) Has voluntarily participated in a discharge planning process with the department to address education; employment, technical, and vocational skills; and his or her housing, medical and mental health needs; and

(d) Has needs which may be adequately met in the community where he or she will reside upon release.

(2) A person who is placed under terms of home incarceration pursuant to subsection (1) of this section shall remain in the custody of the Department of Corrections. Any unauthorized departure from the terms of home incarceration may be prosecuted as an escape pursuant to KRS Chapter 520 and shall result in the person being returned to prison.

(3) The Department of Corrections shall promulgate administrative regulations to implement the provisions of this section.

SB 163, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, except as the context otherwise requires:

(a) "Child" means any person under the age of majority as specified in KRS 2.015;

(b) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in KRS 218A.010, which:

1. Poses an explosion hazard;

2. Poses a fire hazard; or

3. Is poisonous or injurious if handled, swallowed, or inhaled;

(c) "Intent to manufacture" means conduct that is demonstrated by the chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance;

(d) "Knowingly" has the same meaning it has in KRS 501.020;

(e) "Physical injury" has the same meaning it has in KRS 500.080;

(f) "Serious physical injury" has the same meaning it has in KRS 500.080; and

(g) "With intent" has the same meaning as "intentionally" has in KRS 501.020.

(2) A person is guilty of controlled substance endangerment to a child when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance under circumstances that place a child in danger of serious physical injury or death.

(3) Controlled substance endangerment to a child is a:

(a) Class D felony if the child is not injured by the commission of the offense;

(b) Class C felony if the child receives physical injury as a result of the commission of the offense;

(c) Class B felony if the child receives serious physical injury as a result of the commission of the offense; or

(d) Capital offense if the child dies as a result of the commission of the offense.

(4) No person shall be convicted of this offense and criminal homicide, assault in any degree, wanton endangerment in any degree, or endangering the welfare of a minor.

The House Committee Substitute to **SB 163** is as follows:

SB 163, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, except as the context otherwise requires:

(a) "Child" means any person under the age of majority as specified in KRS 2.015;

(b) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in KRS 218A.010, which:

1. Poses an explosion hazard;

2. Poses a fire hazard; or

3. Is poisonous or injurious if handled, swallowed, or inhaled;

(c) "Intent to manufacture" means conduct that is demonstrated by the chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance;

(d) "Knowingly" has the same meaning it has in KRS 501.020;

(e) "Physical injury" has the same meaning it has in KRS 500.080;

(f) "Serious physical injury" has the same meaning it has in KRS 500.080; and

(g) "With intent" has the same meaning as "intentionally" has in KRS 501.020.

(2) A person is guilty of controlled substance endangerment to a child when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance under circumstances that place a child in danger of serious physical injury or death.

(3) Controlled substance endangerment to a child is a:

- *(a) Class D felony if the child is not injured by the commission of the offense;*
- *(b) Class C felony if the child receives physical injury as a result of the commission of the offense;*
- *(c) Class B felony if the child receives serious physical injury as a result of the commission of the offense; or*
- *(d) Capital offense if the child dies as a result of the commission of the offense.*

(4) No person shall be convicted of this offense and criminal homicide, assault in any degree, wanton endangerment in any degree, or endangering the welfare of a minor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

In addition to the criminal penalty specified in KRS 218A.1438, or in lieu of the criminal penalty specified in KRS 218A.1438, any person who traffics in or transfers any drug product or combination of drug products specified in KRS 218A.1438 intentionally or recklessly with knowledge of or reason to know that the drug product or combination of drug products will be used to illegally traffic in or transfer methamphetamine shall be liable for damages in a civil action for all damages, whether directly or indirectly caused by the sale or trafficking or transfer of the drug product or drug products.

(1) Damages may include, but are not limited to:

- *(a) Any and all costs of detecting, investigation, and cleaning up or remediating unlawfully operated laboratories or other facilities for the illegal manufacture of methamphetamine;*
- *(b) Costs of prosecution of criminal cases arising from trafficking in or transfer of a precursor for the illegal manufacture of methamphetamine;*
- *(c) Court costs and reasonable attorney's fees for bringing this civil action;*
- *(d) Consequential damages; and*
- *(e) Punitive damages.*

(2) A civil action to recover damages against a person or persons violating this section may be brought by the Attorney General, or by the Commonwealth's attorney in whose jurisdiction the defendant may be shown to have committed an act specified in this section.

The House Committee Amendment No. 1 Title to **SB 163** is as follows:

SB 163, On page 1, the title, to delete the title appearing thereon and to insert in lieu thereof "AN ACT relating to controlled substances, including their precursors."

Representative Brinkman moved to withdraw **HB 663**. Agreed.

Representative Burch moved to withdraw Floor Amendment No. 2 to **HB 516**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that his vote be changed from "nay" to "yea" on **HB 459**. Agreed.

Representative Meade moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meade moved that his vote be changed from "yea" to "nay" on **HB 459**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Palumbo moved that she be recorded as voting "nay" on **HB 397** and **HJR 105**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on **HB 588**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "nay" on **HB 597**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 615**, by Representative Barrows:

HB 615, On page 1, at line 14, after the word "*creation*" by inserting the word "*, decrease,*"; and

On page 1, at line 21, by deleting all language on line 21 after the word "*Assembly.*"; and

On page 1, at line 22, by deleting all language on line 22; and

On page 3, at line 7, after the word "increase", by inserting the words "or decrease".

Floor Amendment No. 1 to the Committee Substitute to **HB 611**, by Representative Crall:

HB 611, On page 5, lines 18 through 23, after the *(2)*, by deleting all new language; and

On page 5, line 24, at the beginning of the line, by deleting the *(3)*.

Floor Amendment No. 2 to **HB 493**, by Representative Nunn:

HB 493, On page 1, line 6, after "***person***" delete "***or office in which a visitor may be expected***"; and

On page 1, line 7, after "***meeting room,***" insert "***cafeteria,***"; and

On page 1, line 8, delete "***The Legislative Research Commission shall***" and insert in lieu thereof "***The governing authority for each branch of state government, each in regard to space allocated to and occupied by that respective branch of state government, may***"; and

On page 1, line 10, after "***shall be an***" delete "***isolated and***".

Floor Amendment No. 1 to the Committee Substitute to **HB 516**, by Representative Burch:

HB 516, On page 1, line 5, after "***acquired***", by deleting "***immunodeficienty***" and inserting "***immunodeficiency***" in lieu thereof.

Floor Amendment No. 2 Title to the Committee Substitute to **HB 516**, by Representative Burch:

HB 516, By amending the title to read "AN ACT relating to human immunodeficiency virus and acquired immunodeficiency syndrome drug treatment.".

Floor Amendment No. 3 Title to **HB 516**, by Representative Burch:

HB 516, By amending the title to read "AN ACT relating to human immunodeficiency virus and acquired immunodeficiency syndrome drug treatment.".

Floor Amendment No. 1 to **HB 703**, by Representative Horlander:

HB 703, On page 1, line 2, before the word "A", insert "*(1)*";

On page 1, lines 3 and 4, delete all new language;

On page 1, line 2, after the last word "detectives." insert the following new language:

"*County detectives in counties containing a consolidated local government shall have the power of arrest in the county and the right to execute process statewide.*";

On page 1, after line 6, add the following new language:

"*(2) A county detective in a county containing a consolidated local government who has the power of arrest in the county and right to execute process statewide, as set out in subsection (1) of this section, shall be certified in accordance with KRS 15.380 to KRS 15.404.*

Section 2. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

(a) State Police officers, but for the commissioner of the State Police;

(b) City, county, and urban-county police officers;

(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university safety and security officers appointed pursuant to KRS 164.950;

(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;~~[and]~~

(h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040***; and***

(i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with Section 1 of this Act.

(2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers;

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the Division of Charitable Gaming in accordance with KRS 238.510.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Racing Commission security officers employed under KRS 230.240; and

(f) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 25, Representatives Riner and Crenshaw

HB 581, Representative Reinhardt

HB 588, Representative McKee

HB 650, Representative Cornett

HR 174, Representative Crenshaw

HR 213, Representative Richards

Announcements

The following meetings were announced:

Committee on Tourism Development and Energy: Upon adjournment, rear of Chamber

Committee on Health and Welfare: Thursday, March 11, 2004, 8:00 a.m., Room 149

Committee on Labor and Industry: Special Meeting, Noon, Room 125

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, March 11, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, March 11, 2004, was adopted by voice vote.

THURSDAY, MARCH 11, 2004

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Minister Daniel Bentley, First Christian Church, South Shore, Kentucky.

Daniel Bentley sang the National Anthem.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Montell and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 10, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage: **SB 25, 114, 200, 206, 214, 226, HB 59,** and **HCR 30**. (2:10 p.m.)

Representative Wayne moved that the rules be suspended to grant floor privileges and to introduce and act on a resolution. Agreed.

Introduction of Bills and Resolutions

HR 238, by Representative Wayne: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charles W. Vanover.

Representative Wayne moved the adoption of the following **HR 238**:

HR 238, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charles W. Vanover.

With deepest respect and admiration, we pay homage and tribute to Charles W. Vanover, and we pause in silent reverence for his soul.

WHEREAS, Charles W. Vanover was born on March 7, 1925, a native of Daviess County, and longtime resident of Jefferson County, Kentucky, and he traversed these earthly bounds on December 4, 2003; and

WHEREAS, Charles W. Vanover was the loving son of the late Evan and Florence Vanover; he was the devoted husband of 45 years to Jessie Poindexter Vanover; he was the loving father of a daughter, Linda Clemons, and a son, Steve Vanover; he was the loving father-in-law of Gary Clemons and Julie Vanover; and he was the proud grandfather of Heather, Jessica, Charles, Wesley, Maura, and Makenzie; and he also leaves behind a loving sister and brother-in-law, Ramona and Bowen McKinney; a niece, Debbie McKinney Hurt; and two great-nephews, Nathan and Brent; and

WHEREAS, Charles W. Vanover was an esteemed member of the Jefferson County community, where he was a member of Walnut Street Baptist Church; he graduated from Male High School in 1945; he served his country with distinction in the United States Naval Reserves; he retired from Joseph E. Seagrams after 38 years of dedicated service; and he was a loyal member of the Republican Party; and

WHEREAS, Charles W. Vanover served his constituents from the 35th Legislative District in the House of Representatives with pride and honor from 1966-1969; and

WHEREAS, the passing of Charles W. Vanover has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Charles W. Vanover, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Charles W. Vanover.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Jessie P. Vanover, 2802 Delor Avenue, Louisville, Kentucky 40217.

There being no objection, **HR 238** was adopted.

On the roll call for co-sponsors of **HR 238** the vote was: **Yeas 90**. (See March 11, 2004, roll call to show co-sponsors on **HR 238** - Appendix.)

Representative Crimm moved that the rules be suspended to grant floor privileges and act on a Resolution. Agreed.

Representative Crimm moved the adoption of the following **HR 221**:

HR 221, A RESOLUTION adjourning the House of Representatives in honor of Michael Eady upon being the recipient of a National Heroism Award presented by the Boy Scouts of America.

WHEREAS, Michael Eady is a Life Scout and a member of Troop 380 at St. Patrick Catholic Church in Louisville; and

WHEREAS, in September 2002, Michael Eady, along with his ROTC unit at Eastern High School, was washing cars as a fund-raiser at Roppel's Auto Service Center in Middletown; he witnessed an accident that trapped an injured woman underneath an automobile, and he risked his life to aide the victim by crawling under the car, removing shards of glass from her body, and helping to keep her awake and calm until the appropriate emergency personnel arrived; and

WHEREAS, Michael Eady's quick reaction to a serious situation was a result of his Scout emergency preparedness training that helped him deal with this accident in a calm and collected manner; and

WHEREAS, because of his bravery, Michael Eady is the recipient of a National Heroism Award which was presented by the Boy Scouts of America at their annual Lincoln Heritage Council Volunteer and Eagle Scout Recognition meeting in Louisville on February 22, 2004; and

WHEREAS, Michael Eady will be attending the United States Naval Academy in Annapolis, Maryland next year, and he plans a career in the Marine Corps;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby commend and applaud Michael Eady for his courage and valor, and congratulates him upon being a recipient of the prestigious National Heroism Award presented by the Boy Scouts of America on February 22, 2004.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Michael Eady.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Ron Crimm for presentation to Michael Eady.

There being no objection, **HR 221** was adopted.

Representative Adkins moved that the rules be suspended to grant floor privileges to recipients of the 2003 Governor's Awards in the Arts.

Introduction of Bills and Resolutions (Continued)

HR 237, by Representatives Marzian, Brinkman, and Jenkins: A RESOLUTION encouraging the President of the United States, the Kentucky United States Congressional Delegation, and the Governor of the Commonwealth of Kentucky to make it a priority to advance the commitment to community integration and personal security for individuals with mental retardation or other developmental disabilities by ensuring a stable, high quality, direct support workforce.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 236**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolution has been posted for Committee consideration:

Judiciary: **HJR 156**

Report of Committees

The Committee on Tourism Development and Energy reported **HB 627,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 627** is as follows:

HB 627, AN ACT relating to the provision of broadband service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Whereas, the General Assembly finds and determines that:

(1) State-of-the-art telecommunications is an essential element to the Commonwealth's initiatives to improve the lives of Kentucky citizens, to create investment, jobs, economic growth, and to support the Kentucky Innovation Act of 2000;

(2) Streamlined regulation in competitive markets encourages investment in the Commonwealth's telecommunications infrastructure;

(3) Consumers in the Commonwealth have many choices in telecommunications services because competition between various telecommunications technologies such as traditional telephony, cable television, Internet and other wireless technologies has become commonplace;

(4) Consumers benefit from market-based competition that offers consumers of telecommunications services the most innovative and economical services; and

(5) Consumer protections against fraud and abuse, for the provision of affordable basic service, and for access to emergency services including enhanced 911 must continue.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

In addition to the definitions in KRS 278.010 and KRS 278.516(2), for Sections 1 to 3 of this Act, the following definitions shall apply:

(1) "Broadband" means any service that is used to deliver video or to provide access to the Internet and that consists of the offering of the capability to transmit information at a rate that is generally not less than two hundred (200) kilobits per second in at least one direction; or any service that combines computer processing, information storage, and protocol conversion to enable users to access Internet content and services. Nothing in this definition shall be construed to include any intrastate service, other than digital subscriber line service, tariffed at the commission as of July 15, 2004.

(2) "Local exchange carrier" means any company certified by the commission to provide local exchange telecommunications service in the Commonwealth on or before June 30, 1995.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The provision of broadband services shall be market-based and not subject to state administrative regulation. Notwithstanding any other provision of law to the contrary, no agency of the state shall impose or implement any requirement upon a broadband service provider with respect to the following:

  (a) The availability of facilities or equipment used to provide broadband services; or

  (b) The rates, terms or conditions for, or entry into, the provision of broadband service.

(2) Any requirement imposed upon broadband service in existence as of July 15, 2004 is hereby voided upon enactment of Sections 1 to 3 of this Act. The provisions of this section do not limit or modify the duties of a local exchange carrier or an affiliate of a local exchange carrier to provide unbundled access to network elements to the extent required under 47 U.S.C. Sections 251 and 252, and any regulations issued by the Federal Communications Commission at rates determined in accordance with the standards established by the Federal Communications Commission pursuant to 47 C.F.R. Sections 51.503 to 51.513, inclusive of any successor regulations. Nothing contained in Sections 1 to 3 of this Act shall be construed to preclude the application of access or other lawful rates and charges to broadband providers. Nothing contained in Sections 1 to 3 of this Act shall preclude, with respect to broadband services, access for those service providers that use or make use of the publicly switched network.

Section 4. (1) There is hereby created the Kentucky Broadband Task Force. The Task Force shall examine the deployment of broadband in the Commonwealth including, but not limited to, the following aspects of provisioning broadband service: regulation, cost, access to facilities, and market competition.

(2) The Kentucky Broadband Task Force shall be a legislative task force consisting of nineteen (19) members as follows:

  (a) Three (3) Senate members appointed by the Senate President;

(b) Three (3) Representatives from the House appointed by the Speaker of the House;

(c) Two (2) members representing the Public Service Commission appointed by the Legislative Research Commission from a list of six (6) persons submitted by the chairman of the Public Service Commission;

(d) Eleven (11) members shall be appointed by the Legislative Research Commission as follows:

1. One (1) member from the Office of the Governor;
2. Four (4) members representing the incumbent local exchange carriers;
3. Two (2) members representing the competitive local exchange carriers;
4. One (1) member representing Internet Service Providers;
5. One (1) member representing municipal utilities;
6. One (1) member shall be the Secretary of the Environmental and Public Protection Cabinet; and
7. One (1) member shall be the Commissioner of Public Protection.

(3) A majority of the members shall constitute a quorum. The President of the Senate and the Speaker of the House each shall appoint a co-chair from the members named from their chambers to the task force. The task force shall meet quarterly and may meet more often upon a call of the co-chair. Staff services shall be provided by the Legislative Research Commission with assistance from the Public Service Commission.

(4) A report of findings and recommendations shall be submitted to the Legislative Research Commission and to the Governor no later than November 15, 2004.

(5) Provisions of this section notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Health and Welfare reported **HB 98,** with Committee Substitute attached thereto, **HB 145,** with Committee Substitute attached thereto, **HB 646, HB 671,** with Committee Substitute attached thereto, **HB 672,** with Committee Substitute attached thereto, **HB 684, HB 685,** with Committee Substitute attached thereto, **HB 688,** with Committee Substitute attached thereto, **HB 695, HJR 211, SB 16,** and **SB 40** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 98, AN ACT relating to children in the custody of the state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may establish a pilot program to provide residential services specifically for sibling groups of children committed to the cabinet.

(2) If a pilot program is established, the cabinet shall solicit proposals from existing child-caring or child-placing agencies that have contractual agreements with the cabinet for state fiscal year 2004. The cabinet may consider proposals from child-caring or child-placing agencies that are not contracted agents of the cabinet for state fiscal year 2004 but had a contract prior to 2004, if the agency was in good standing with the cabinet when the contract expired.

(3) If a pilot program is established, it shall include but not be limited to the following:

(a) Placement priority shall be given to sibling groups who are committed to the cabinet;

(b) Placement stability shall be insured, and each child placed in the program shall not be moved or separated from his or her siblings unless:

1. A threat to the child's health or safety exists; and

2. Necessary treatment services cannot be provided on site by program staff or another provider; and

(c) Visitation and communication between children in the pilot placement and their biological parent or parents shall be encouraged, facilitated, and supported by the cabinet unless a court order specifically prohibits contact between the child and his or her biological parent or parents.

(4) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section. The cabinet may specify additional conditions regarding visitation and communication between a child in placement and his or her biological parent or parents.

The Committee Substitute to **HB 98** is as follows:

HB 98, AN ACT relating to children in the custody of the state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish a pilot program to provide residential services specifically for sibling groups of children committed to the cabinet.

(2) The cabinet shall solicit proposals from existing child-caring or child-placing agencies that have contractual agreements with the cabinet for state fiscal year 2004. The cabinet may consider proposals from child-caring or child-placing agencies that are not contracted agents of the cabinet for state fiscal year 2004 but had a contract prior to 2004, if the agency was in good standing with the cabinet when the contract expired.

(3) The pilot program shall include but not be limited to the following:

(a) Placement priority shall be given to sibling groups who are committed to the cabinet;

(b) Placement stability shall be insured, and each child placed in the program shall not be moved or separated from his or her siblings unless:

1. A threat to the child's health or safety exists; and

2. Necessary treatment services cannot be provided on site by program staff or another provider; and

(c) Visitation and communication between children in the pilot placement and their biological parent or parents shall be encouraged, facilitated, and supported by the cabinet unless a court order specifically prohibits contact between the child and his or her biological parent or parents.

(4) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section. The cabinet may specify additional conditions regarding visitation and communication between a child in placement and his or her biological parent or parents.

HB 145, AN ACT relating to radon mitigation in buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act:

(1) "Zone 1" means a designated geographic area containing the highest indoor predicted average screening level of concentration of radon gas in a specific volume as determined by the Cabinet for Health Services.

(2) "Radon mitigation system" means a system designed to reduce the concentration of radon gas within a building to an annual average of four (4) picoCuries per liter or less that meets the design criteria as published by Region IV of the United States Environmental Protection Agency.

(3) "Local government" means a city, county, urban-county government, charter county government, or consolidated local government.

(4) "Building" means "building" as defined in KRS 198B.010.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) All single-family dwellings, multifamily dwellings, child daycare facilities, and public and private elementary and secondary schools located in a county designated as a Zone 1 county, the construction of which begins on or after one (1) year after the effective date of this Act, shall contain radon mitigation systems.

(2) Local governments in Zone 1 may require radon mitigation systems for buildings the construction of which begins on or one (1) year after the effective date of this Act in addition to single-family dwellings, multifamily dwellings, child daycare facilities, and public and private elementary and secondary schools.

(3) Local governments not in Zone 1 may require radon mitigation systems for any buildings the construction of which begins on or after one (1) year after the effective date of this Act.

(4) All radon mitigation systems shall be installed and inspected by persons certified by the Cabinet for Health Services under the provisions of KRS 211.856.

(5) The Department of Housing, Buildings and Construction shall, within one hundred twenty (120) days after the effective date of this Act, promulgate administrative regulations under the provisions of KRS Chapter 13A establishing the minimum requirements for acceptable radon mitigation systems to be installed in single-family residential dwellings, multifamily residential dwellings, child daycare facilities, public and private elementary and secondary schools, and other buildings. The Department of Housing, Buildings and Construction shall consult with the Cabinet for Health Services to determine the minimum requirements for acceptable radon mitigation systems.

(6) A local government shall not issue a final certificate of occupancy for a single-family dwelling, multifamily dwelling, child daycare facility, or a public or private elementary or secondary school the construction of which is begun on or after one (1) year after the effective date of this Act, in a county designated as a Zone 1 county unless an acceptable radon mitigation system meeting the requirements of the Department of Housing, Buildings and Construction has been installed.

(7) An income tax credit shall be allowed for the cost of the system required to be installed in subsection (1) of this section under the provisions of Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

There shall be allowed as a nonrefundable credit against the tax imposed by KRS 141.020 and 141.040 an amount equal to fifty percent (50%) of the cost of a radon mitigation system required to be installed under subsection (1) of Section 2 of this Act. If the taxpayer is a pass-through entity, the tax credit shall pass through in the same proportion as the distributive share of income or loss is passed through. Any unused credit may be carried forward for three (3) taxable years.

Section 4. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(h) The low income credit permitted by KRS 141.066;

(i) The household and dependent care credit permitted by KRS 141.067;

(j) The coal incentive credit permitted under KRS 141.0405;~~[and]~~

(k) The research facilities credit permitted under KRS 141.395*; and*

(l) The credit for the installation of radon mitigation systems in new construction permitted by Section 3 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(h) The coal incentive credit permitted under KRS 141.0405;~~[and]~~

(i) The research facilities credit permitted under KRS 141.395*; and*

(j) The credit for the installation of radon mitigation systems in new construction permitted by Section 3 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 5. KRS 211.855 is amended to read as follows:

(1) The Cabinet for Health Services shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky*, except that the Department of Housing, Buildings and Construction shall be responsible for the establishment of minimum requirements for radon mitigation systems installed pursuant to Section 2 of this Act*.

(2) The Cabinet for Health Services shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

Section 6. The provisions of Section 3 of this Act shall apply to taxable years beginning after December 31, 2003.

The Committee Substitute to **HB 145** is as follows:

HB 145, AN ACT relating to radon mitigation in buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act:

(1) "Zone 1" means a designated geographic area containing the highest indoor predicted average screening level of concentration of radon gas in a specific volume as determined by the Cabinet for Health Services;

(2) "Radon mitigation system" means a system designed to reduce the concentration of radon gas within a building to an annual average of four (4) picoCuries per liter or less that meets the design criteria as published by Region IV of the United States Environmental Protection Agency;

(3) "Local government" means a city, county, urban-county government, charter county government, or consolidated local government; and

(4) "Building" means "building" as defined in KRS 198B.010.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Each long-term care facility, child daycare facility, and public and private elementary and secondary school located in a county designated as a Zone 1 county, the construction of which begins on or after one (1) year after the effective date of this Act, shall contain a radon mitigation system.

(2) Each owner of a single-family dwelling, multifamily dwelling, or building in a Zone 1 county may install a radon mitigation system in that single-family dwelling, multifamily dwelling, or building if its construction begins on or one (1) year after the effective date of this Act.

(3) All radon mitigation systems shall be installed and inspected by persons certified by the Cabinet for Health Services under the provisions of KRS 211.856.

(4) The Department of Housing, Buildings and Construction shall, within one hundred twenty (120) days after the effective date of this Act, promulgate administrative regulations under the provisions of KRS Chapter 13A establishing the minimum requirements for acceptable radon mitigation systems to be installed in single-family residential dwellings, multifamily residential dwellings, long-term care facilities, child daycare facilities, public and private elementary and secondary schools, and other buildings. The Department of Housing, Buildings and Construction shall consult with the Cabinet for Health Services to determine the minimum requirements for acceptable radon mitigation systems.

(5) A local government shall not issue a final certificate of occupancy for a long-term care facility, child daycare facility, or a public or private elementary or secondary school the construction of which is begun on or after one (1) year after the effective date of this Act, in a county designated as a Zone 1 county unless an acceptable radon mitigation system meeting the requirements of the Department of Housing, Buildings and Construction has been installed.

(6) An income tax credit shall be allowed for the cost of the system installed in subsections (1) and (2) of this section under the provisions of Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

There shall be allowed as a nonrefundable credit against the tax imposed by KRS 141.020 and 141.040 an amount equal to fifty percent (50%) of the cost of a radon mitigation system installed under subsections (1) and (2) of Section 2 of this Act. If the taxpayer is a pass-through entity, the tax credit shall pass through in the same proportion as the distributive share of income or loss is passed through. Any unused credit may be carried forward for three (3) taxable years.

Section 4. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  (a) The individual credits permitted by KRS 141.020(3);
  (b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;
  (c) The health insurance credit permitted by KRS 141.062;
  (d) The tax paid to other states credit permitted by KRS 141.070;
  (e) The credit for hiring the unemployed permitted by KRS 141.065;
  (f) The recycling or composting equipment credit permitted by KRS 141.390;
  (g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  (h) The low income credit permitted by KRS 141.066;
  (i) The household and dependent care credit permitted by KRS 141.067;

(j) The coal incentive credit permitted under KRS 141.0405;[~~ and~~]

(k) The research facilities credit permitted under KRS 141.395*; and*

(l) The credit for the installation of radon mitigation systems in new construction permitted by Section 3 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(h) The coal incentive credit permitted under KRS 141.0405;[~~ and~~]

(i) The research facilities credit permitted under KRS 141.395*; and*

(j) The credit for the installation of radon mitigation systems in new construction permitted by Section 3 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 5. KRS 211.855 is amended to read as follows:

(1) The Cabinet for Health Services shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky*, except that the Department of Housing, Buildings and Construction shall be responsible for the establishment of minimum requirements for radon mitigation systems installed pursuant to Section 2 of this Act*.

(2) The Cabinet for Health Services shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

Section 6. The provisions of Section 3 of this Act shall apply to taxable years beginning after December 31, 2003.

HB 646, AN ACT relating to breast-feeding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky recognizes and hereby declares that breast-feeding a baby is an important and basic act of nurture. Breast-feeding can be a significant health and medical choice. Breast-feeding can be a major risk reducer for acute and chronic diseases for both baby and mother, including cancers, diabetes, and obesity. This section is enacted with the express legislative intention of encouraging mothers to breast-feed, and thereby to increase the rates and duration of breast-feeding.

(2) As used in this section, "department" means the Department for Public Health.

(3) A state agency that administers a program providing maternal or child health services shall provide information that encourages breast-feeding to program participants who are pregnant women or mothers with babies.

(4) The department shall annually publish statistical information related to breast-feeding beginning in fiscal year 2005-2006.

HB 671, AN ACT relating to the release of information in child abuse cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A

misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

(e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;

(g) Employees or designated agents of a children's advocacy center; or

(h) Those persons so authorized by court order.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;

2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and

3. The court and those persons so authorized by a court order.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.

(10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and

2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

(b) The defendant's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report.

(12) ***(a)*** Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(b) The cabinet, a representative of the Office of the Ombudsman, and a representative of the Office of the Attorney General shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:

1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and

2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.

(c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

The Committee Substitute to **HB 671** is as follows:

HB 671, AN ACT relating to the release of information in child abuse cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent

privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

(e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;

(g) Employees or designated agents of a children's advocacy center; or

(h) Those persons so authorized by court order.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;

2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and

3. The court and those persons so authorized by a court order.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.

(10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and

2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

(b) The defendant's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report.

(12) *(a)* Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:

1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and

2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.

(c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

HB 672, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.305 is amended to read as follows:

(1) No person shall operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. The secretary shall impose a fee, not to exceed one hundred dollars ($100), for this registration.

(2) The secretary shall adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes. The administrative regulations shall include minimum requirements in the following areas:

(a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

(b) Bedding, linens, and laundry services provided to residents;

(c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;

(d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;

(e) Maintenance of the building;

(f) Food handling, preparation, and storage, and kitchen sanitation;

(g) Handling and storage of resident's prescription drugs; and

(h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home.

(3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:

(a) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and

(b) All applicable local health, fire, building, and safety codes and zoning ordinances.

(4) ***(a) Except as otherwise provided in this subsection,*** any boarding home found to be out of compliance with administrative regulations relating to boarding homes promulgated pursuant to subsection (2) of this section, after being provided with written notice of noncompliance and a reasonable period of time for correction, shall not be registered. ***If a boarding home fails to meet the minimum standards established in subsections (2) and (3) of this section and is in such a condition that the cabinet determines that the boarding home's continued operation poses a significant risk to the health and safety of its residents, the cabinet may summarily suspend the registration of the boarding home by ordering that its operations cease until corrections are made or until the a hearing is held on the appropriateness of the suspension.***

(b) A boarding home operator may appeal the cabinet's denial of registration, and an administrative hearing shall be conducted in accordance with KRS Chapter 13B. ***A hearing held for a summary suspension shall be expedited and shall be in accordance with administrative regulations promulgated by the department.*** If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.

(5) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.

(6) Nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for Health Services.

The Committee Substitute to **HB 672** is as follows:

HB 672, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.305 is amended to read as follows:

(1) No person shall operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. ***No person who has been convicted of a crime of abuse under KRS 508.100 to 508.120 or who has had a report substantiated by the cabinet shall be registered to operate a boarding home.*** The secretary shall impose a fee, not to exceed one hundred dollars ($100), for this registration.

(2) The secretary shall adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes. The administrative regulations shall include minimum requirements in the following areas:

(a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

(b) Bedding, linens, and laundry services provided to residents;

(c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;

(d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;

(e) Maintenance of the building;

(f) Food handling, preparation, and storage, and kitchen sanitation;

(g) Handling and storage of resident's prescription drugs; and

(h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home.

(3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:

(a) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and

(b) All applicable local health, fire, building, and safety codes and zoning ordinances.

(4) ***(a) Except as otherwise provided in this subsection,*** any boarding home found to be out of compliance with administrative regulations relating to boarding homes promulgated pursuant to subsection (2) of this section ***or pursuant to any local ordinance regulating boarding homes pursuant to subsection (6) of this section***, after being provided with written notice of noncompliance and a reasonable period of time for correction, shall not be registered***, or shall have its initial or annual registration revoked. If a boarding home fails to meet a minimum standard established in subsection (2) or (3) of this section and is in such a condition that the cabinet determines that the boarding home's continued operation poses a significant risk to the health and safety of its residents, the cabinet may summarily suspend the registration of the boarding home by ordering that its***

operations cease until corrections are made or until a hearing is held on the appropriateness of the suspension.

(b) A boarding home operator may appeal the cabinet's denial of registration, and an administrative hearing shall be conducted in accordance with KRS Chapter 13B. *A hearing held for a summary suspension shall be expedited and shall be in accordance with administrative regulations promulgated by the department.* If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.

(5) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.

(6) Nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for Health Services.

HB 684, AN ACT relating to the development of primary health care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

It is the intent of Sections 1 to 5 of this Act to provide financial assistance to licensed, nonprofit, primary health care clinics that are seeking to expand, renovate, or relocate into medically underserved and rural areas as identified by the United States Department of Health and Human Services. Priority for financial assistance shall be given to those community-oriented, nonprofit, comprehensive primary care clinics that provide primary medical care services to underserved and rural areas of the state and which are seeking to expand existing facilities or to obtain new health care equipment or the replacement of outdated health care equipment.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The following words and terms as used in Sections 1 to 5 of this Act, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Agreement" means any lending agreement made pursuant to Sections 3 and 4 of this Act between the authority and an approved primary care clinic;

(2) "Authority" means the Kentucky Economic Development Finance Authority;

(3) "Commonwealth" means the Commonwealth of Kentucky;

(4) "Eligible primary health care clinic" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity that provides or manages a nonprofit primary health care clinic that is licensed through the provisions of KRS Chapter 216B, and provides or seeks to provide primary health care services in rural, medically underserved counties as designated by the United States Department of Health and Human Services; and

(5) "Primary health care project" or "project" means and includes:

(a) The acquisition of ownership in any real estate by an eligible primary health care clinic;

(b) The rehabilitation, renovation, or construction of facilities by an eligible primary health care clinic; and

(c) The rehabilitation, replacement, or purchase of health care equipment necessary or convenient to equip and furnish a primary health care clinic.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority may receive appropriations, borrow money, and issue bonds or notes in accordance with KRS 154.10-035 and other provisions of this chapter appertaining, subject to KRS 42.420, for the purpose of establishing a special revolving loan program to provide capital financing to community-oriented, nonprofit, licensed primary health care facilities.

(2) Moneys in the revolving loan program:

(a) Shall be used to provide financial assistance to nonprofit, primary health care clinics for nonrecurring fixed costs, including but not limited to the construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the primary health care clinic;

(b) May be made available to any person or entity, public or private, organized for not-for-profit; and

(c) Shall be made on the terms and conditions the authority, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purpose and objects of the authority and this chapter, which may include

but not be limited to the pledging of adequate security.

(3) The authority shall have the powers necessary to carry out the purposes of this section including but not limited to the power to:

(a) Making and conditioning all loans from the revolving loan fund;

(b) Employing fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of loan agreements and documents. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan under this program directly to the person providing consultation, advisory, legal, or other services; and

(c) Imposing and collecting fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees and charges.

(4) The authority shall give priority consideration to existing nonprofit, primary health care projects being undertaken by existing primary health care clinics that are seeking to expand, renovate, or relocate into medically underserved and rural areas. The authority shall utilize the most recent studies undertaken by the United States Department of Health and Human Services that designate medically under served and rural areas in the Commonwealth.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall apply all usual lending standards to determine the creditworthiness of each applicant.

(2) No loan shall exceed one million dollars ($1,000,000).

(3) The maturity date of the loan shall be set as agreed to between the authority and the borrower with a maximum maturity of ten (10) years.

(4) The rate of interest for the term of the loan shall be fixed at the Wall Street Journal prime rate as published on the first business day of each month, with a minimum interest rate of five percent (5%) per annum.

(5) Upon default by an approved borrower, the authority shall have the right, at its option, to declare the loan agreement or other such documents in default; and

(a) Accelerate and declare the total of all such payments due by the borrower and sell the project at public, private, or judicial sale;

(b) Pursue any remedy provided under the loan agreement or other such documents;

(c) Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the project is located; and

(d) Pursue any other remedy at law to which it appears to be entitled.

SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate Sections 1 to 5 of this Act, including the promulgation of administrative regulations, in accordance with the provisions of KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

SECTION 6. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Obligations issued under Sections 1 to 5 of this Act shall not be deemed to constitute a debt, liability, or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any such political subdivision, but shall be payable solely from the revenues or assets of the authority. Each obligation issued under Sections 1 to 5 of this Act shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same nor the interest thereon, except from the revenues or assets pledged therefor, and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

(2) Expenses incurred by the authority in carrying out Sections 1 to 5 of this Act may be payable from funds provided pursuant to Sections 1 to 5 of this Act and no liability shall be incurred by the authority beyond the extent to which moneys shall have been so provided.

Section 7. This Act shall take effect July 1, 2006.

HB 685, AN ACT relating to diabetes research.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Applicant" means the entity within the University of Kentucky or University of Louisville applying for a grant award;

(2) "Board" means the Kentucky Diabetes Research Board;

(3) "Grantee" means the entity receiving a grant award;

(4) "PI" means the principle investigator;

(5) "SAC" means the Science Advisory Council of the American Diabetes Association working in a coordinated effort with the National Kidney Foundation; and

(6) "Trust fund" means the Kentucky Diabetes Trust Fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Diabetes Research Board is created for the purpose of administering the diabetes research trust fund. The board shall be composed of seven (7) members appointed by the Governor as follows:

- *(a) Two (2) members representing the University of Kentucky College of Medicine;*
- *(b) Two (2) members representing the University of Louisville School of Medicine;*
- *(c) One (1) member who has diabetes or who has a family member with diabetes;*
- *(d) One (1) member who is a physician with experience with research or treatment of diabetes; and*
- *(e) One (1) at-large member who has a health care policy perspective on diabetes issues as a patient, health care provider, consultant, or in business.*

(2) The term of a board member shall be four (4) years. A board member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of his or her duties.

(3) At the end of a term, a member shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(4) A simple majority of the full membership of the board shall constitute a quorum.

(5) The board shall elect, by a majority vote, a chairperson who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairperson shall be elected or reelected for each calendar year.

(6) The board shall meet at least two (2) times each year but may be meet more frequently, subject to call by the chairperson or by request of a majority of the board members. Each board meeting shall include but not be limited to programs relating to diabetes, research progress reports, authorization of projects, and financial plans.

(7) No member of the board shall be subject to any personal liability or personal accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(8) The board shall be attached to the Cabinet for Health Services for administrative purposes. The Cabinet for Health Services shall provide sufficient staff for the proper administration of the board.

(9) The Cabinet for Health Services shall promulgate any necessary administrative regulations in accordance with KRS Chapter 13A to implement the provisions of Sections 1 to 5 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The revenues received from a voluntary contribution on income tax returns as provided in Section 6 of this Act shall be credited to the Kentucky Diabetes Research Trust Fund that is hereby created. Federal funds or other funds that may be made available to supplement or match state funds for diabetes research programs shall be credited to the trust fund.

(2) Funds deposited to the credit of the diabetes research trust fund shall be used to finance the diabetes research programs and for the operation of the Kentucky Diabetes Research Board. Funds for research shall only be used for diabetes research conducted by the University of Kentucky or the University of Louisville.

(3) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, and any surplus shall be included in the budget considered and approved by the board for the ensuing period.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) A proposed research project shall be submitted to the board on an application developed by the Cabinet for Health Services in consultation with the board. The submission deadline for the application shall be September 30 of each year.

(2) The board shall forward each application received to the director of research at the American Diabetes Association with a request that he or she transmit the project proposal to the members of the SAC for their review. The director of research shall return to the board the application along with rating recommendations for each project.

(3) After the board reviews the rating recommendations, the board shall then review the project proposal for scientific merit and adherence to the research priority established in this section. After reviewing the project proposal's rating recommendations, scientific merit, and adherence to the research priority, the board shall determine whether a project proposal shall or shall not be funded. An applicant shall be notified of the board's decision on the application no later

than December 31 of each year.

(4) A project proposal shall be reviewed for scientific merit as follows:

(a) Adequacy of prior research and theory in providing a basis for the research;

(b) Adequacy of methods;

(c) Adequacy of environment, facilities, equipment, available equipment, and research atmosphere;

(d) Qualifications and productivity of the PI and key staff;

(e) Time commitments of the PI and key staff;

(f) Availability of subjects or patients where relevant;

(g) Adequacy of procedures for assessing the effect of interventions on recovery; and

(h) Other factors that affect the potential of the applicants to successfully address the research objectives.

(5) A project shall be reviewed by the board for adherence to research priorities relating to in vivo and in vitro studies on naturally occurring phenomena that may:

(a) Predict the development of diabetic vascular, neuronal, or musculo-skeletal complications;

(b) Define the response of diabetic vascular, neuronal, or musculo-skeletal complications to existing therapies; or

(c) Reverse diabetic vascular, neuronal, or musculo-skeletal complications.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) A research contract shall be granted for a one (1) year period, with renewal for two (2) additional years subject to the conditions established by this section. Renewal in years two (2) and three (3) shall depend upon fulfillment of contract terms.

(2) A grantee shall submit to the board an annual progress report, including a narrative and financial report of any progress.

(3) The annual progress report shall be due sixty (60) days prior to the effective date of the contract of the following year.

(4) (a) A grantee shall submit a final narrative progress report thirty (30) days after completion or termination of the contract and a financial report no later than ninety (90) days after completion or termination of the contract.

(b) The financial report shall be completed by the contracting institution.

(5) The PI shall transmit to the board a copy of any document published as a result of the funded research, during and after the period of the contract.

(6) A grantee shall acknowledge the source of funding from the trust in all publications and presentations.

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

A taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Kentucky Diabetes Research Trust Fund established by Section 3 of this Act, may designate an amount, not to exceed the amount of the refund, to be paid to the Kentucky Diabetes Research Trust Fund. The designation shall not increase or decrease the amount of the income tax liability of a taxpayer, but it shall reduce the income tax refund of the taxpayer by the amount designated.

The Committee Substitute to **HB 685** is as follows:

HB 685, AN ACT relating to diabetes research.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Applicant" means the entity within the University of Kentucky or University of Louisville applying for a grant award;

(2) "Board" means the Kentucky Diabetes Research Board;

(3) "Grantee" means the entity receiving a grant award;

(4) "PI" means the principal investigator; and

(5) "Trust fund" means the Kentucky Diabetes Trust Fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Diabetes Research Board is created for the purpose of the secretary of administering the diabetes research trust fund. The board shall be composed of the secretary of the Cabinet for Health Services or the secretary's designee and seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has diabetes or who has a family member with diabetes;

(d) One (1) member who is a physician with experience with research or treatment of diabetes; and

(e) One (1) at-large member who has a health care policy perspective on diabetes issues as a patient, health care provider, consultant, or in business.

(2) The term of each appointed board member shall be four (4) years. A board member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of his or her duties.

(3) At the end of a term, a member shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(4) A simple majority of the full membership of the board shall constitute a quorum.

(5) The board shall elect, by a majority vote, a chairperson who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairperson shall be elected or reelected for each calendar year.

(6) The board shall meet at least two (2) times each year but may meet more frequently, subject to call by the chairperson or by request of a majority of the board members. Each board meeting shall include but not be limited to programs relating to diabetes, research progress reports, authorization of projects, and financial plans.

(7) No member of the board shall be subject to any personal liability or personal accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(8) The board shall be attached to the Cabinet for Health Services for administrative purposes. The Cabinet for Health Services shall provide sufficient staff for the proper administration of the board.

(9) The Cabinet for Health Services shall promulgate any necessary administrative regulations in accordance with KRS Chapter 13A to implement the provisions of Sections 1 to 5 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Diabetes Research Trust Fund is hereby created. Federal funds or other funds that may be made available to supplement or match state funds for diabetes research programs may be credited to the trust fund.

(2) Funds deposited to the credit of the diabetes research trust fund shall be used to finance the diabetes research programs and for the operation of the Kentucky Diabetes Research Board. Funds for research shall only be used for diabetes research conducted by the University of Kentucky or the University of Louisville.

(3) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, and any surplus shall be included in the budget considered and approved by the board for the ensuing period.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) A proposed research project shall be submitted to the board on an application developed by the Cabinet for Health Services in consultation with the board. The submission deadline for the application shall be September 30 of each year.

(2) The board shall review the project proposal for scientific merit and adherence to the research priority established in this section. After reviewing the project proposal's scientific merit and adherence to the research priority, the board shall determine whether a project proposal shall or shall not be funded. An applicant shall be notified of the board's decision on the application no later than December 31 of each year.

(3) A project proposal shall be reviewed for scientific merit as follows:

(a) Adequacy of prior research and theory in providing a basis for the research;

(b) Adequacy of methods;

(c) Adequacy of environment, facilities, equipment, available equipment, and research atmosphere;

(d) Qualifications and productivity of the PI and key staff;

(e) Time commitments of the PI and key staff;

(f) Availability of subjects or patients where relevant;

(g) Adequacy of procedures for assessing the effect of interventions on recovery; and

(h) Other factors that affect the potential of the applicants to successfully address the research objectives.

(4) A project shall be reviewed by the board for adherence to research priorities relating to in vivo and in vitro studies on naturally occurring phenomena that may:

(a) Predict the development of diabetic vascular, neuronal, or musculo-skeletal complications;

(b) Define the response of diabetic vascular, neuronal, or musculo-skeletal complications to existing therapies; or

(c) Reverse diabetic vascular, neuronal, or musculo-skeletal complications.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) A research contract shall be granted for a one (1) year period, with renewal for two (2) additional years subject to the conditions established by this section. Renewal in years two (2) and three (3) shall depend upon fulfillment of contract terms.

(2) A grantee shall submit to the board an annual progress report, including a narrative and financial report of any progress.

(3) The annual progress report shall be due sixty (60) days prior to the effective date of the contract of the following year.

(4) (a) A grantee shall submit a final narrative progress report thirty (30) days after completion or termination of the contract and a financial report no later than ninety (90) days after completion or termination of the contract.

(b) The financial report shall be completed by the contracting institution.

(5) The PI shall transmit to the board a copy of any document published as a result of the funded research, during and after the period of the contract.

(6) A grantee shall acknowledge the source of funding from the trust in all publications and presentations.

HB 688, AN ACT relating to the composition of the Kentucky State Board of Medical Licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the State Board of Medical Licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the State Board of Health. The offices of the board shall be maintained at such place as is designated by the board. The board shall consist of fifteen (15) members, including the commissioner of public health, the dean of the University of Kentucky College of Medicine, the vice dean for clinical affairs of the University of Louisville School of Medicine, the dean of the Pikeville College School of Osteopathic Medicine, *a representative of the Office of Attorney General appointed by the Attorney General,* and *ten (10)*[~~eleven (11)~~] members appointed by the Governor. One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. *Six (6)*[~~Seven (7)~~] members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. *Two (2)*[~~Three (3)~~] members shall be citizens at large who are representatives of any recognized consumer advocacy groups with an interest in the delivery of health care and are not associated with or financially interested in the practice or business regulated. *One (1) member shall be a chiropractor licensed under KRS Chapter 312.*

Section 2. KRS 311.535 is amended to read as follows:

The appointed members of the State Board of Medical Licensure shall hold office for terms of four (4) years and until their successors are appointed and qualify. The *representative of the Office of Attorney General, the* commissioner of public health and the deans of the medical schools shall hold office only while holding their respective titles. The terms of all appointed members of the board shall expire on August 31 of the last year of their respective terms.

The Committee Substitute to **HB 688** is as follows:

HB 688, AN ACT relating to the composition of the Kentucky State Board of Medical Licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to study the composition of the Kentucky Board of Medical Licensure to determine if the current composition adequately supports the ability of the board to objectively investigate complaints and render disciplinary actions against a licensee. The study shall recommend whether the appointment of a representative of the Attorney General's office would support the board's responsibilities related to investigating disciplinary actions rendered in other jurisdictions outside of Kentucky and whether the board should include members from other health professions.

Section 2. The Interim Joint Committee on Health and Welfare shall report its findings and recommendations to the 2005 Regular Session of the General Assembly.

Section 3. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HB 695, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Abortion facility" means any place in which an abortion is performed;

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;

(3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; and the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;

(4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;

(5) "Cabinet" means the Cabinet for Health Services;

(6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;

(7) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

(8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;

(9) "Certified surgical assistant" means a certified surgical assistant or certified first assistant who is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification of Surgical Technologists, or the American Board of Surgical Assistants. The certified surgical assistant is an unlicensed health-care provider who is directly accountable to a physician licensed under KRS Chapter 311 or, in the absence of a physician, to a registered nurse licensed under KRS Chapter 314;

(10) "Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include ***one (1) or more*** independent living units, ***plus*** nursing home beds, and either assisted living units or personal care beds;

(11) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;

(12) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;

(13) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;

(14) "Independent living" means the provision of living units and supportive services including, but not limited to, laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation;

(15) "Intraoperative surgical care" includes the practice of surgical assisting in which the certified surgical assistant or physician assistant is working under the direction of the operating physician as a first or second assist, and which may include the following procedures:

(a) Positioning the patient;

(b) Preparing and draping the patient for the operative procedure;

(c) Observing the operative site during the operative procedure;

(d) Providing the best possible exposure of the anatomy incident to the operative procedure;

(e) Assisting in closure of incisions and wound dressings; and

(f) Performing any task, within the role of an unlicensed assistive person, or if the assistant is a physician assistant, performing any task within the role of a physician assistant, as required by the operating physician incident to the particular procedure being performed;

(16) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

(17) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;

(18) "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;

2. Telecommunications or telephone systems;

3. Management information systems;

4. Ventilation systems;

5. Heating or air conditioning, or both;

6. Energy conservation; or

7. Administrative offices;

(19) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;

(20) "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients;

(21) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;

(22) "Physician assistant" means the same as the definition provided in KRS 311.550;

(23) "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet;

(24) "Registered nurse first assistant" means one who:

(a) Holds a current active registered nurse licensure;

(b) Is certified in perioperative nursing; and

(c) Has successfully completed and holds a degree or certificate from a recognized program, which shall consist of:

1. The Association of Operating Room Nurses, Inc., Core Curriculum for the registered nurse first assistant; and

2. One (1) year of postbasic nursing study, which shall include at least forty-five (45) hours of didactic instruction and one hundred twenty (120) hours of clinical internship or its equivalent of two (2) college semesters.

A registered nurse who was certified prior to 1995 by the Certification Board of Perioperative Nursing shall not be required to fulfill the requirements of paragraph (c) of this subsection;

(25) "Secretary" means the secretary of the Cabinet for Health Services;

(26) "Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health Services or the Cabinet for Families and Children, and that provides sexual assault examinations under KRS 216B.400;

(27) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

(28) "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility;

(29) "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

(30) "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation;

(31) "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another person;

(32) "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

(33) "To establish" means to construct, develop, or initiate a health facility;

(34) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

(35) "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.335 is amended to read as follows:

The establishment of continuing care retirement community nursing home beds under KRS 216B.015, 216B.020, 216B.330, and 216B.332 shall be limited to the time period commencing upon July 14, 2000, and ending July 31, ***2008***~~[2004]~~. No further continuing care retirement community nursing home beds shall be established under KRS 216B.015, 216B.020, 216B.330, and 216B.332 without affirmative actions of the General Assembly.

HJR 211, A JOINT RESOLUTION directing the Cabinet for Health Services to study the problem of teenage in-vehicle drinking and related drug abuse.

WHEREAS, teenagers with ready access to the motor vehicle have become increasingly mobile; and

WHEREAS, in the United States in 1998, 1,695 youths in the 15- to 19-year-old age range lost their lives as a result of alcohol-related traffic accidents; and

WHEREAS, the Aluminum Anonymous Project surveyed 1,072 miles of Kentucky roadsides from Pikeville to Hazard to London to Lebanon to Glasgow to the Tennessee state line, and from the West Virginia state line to Maysville to Frankfort to Owensboro to Hopkinsville in September 1997, November 1998, and October 2000 for the discard rate of alcoholic beverage containers, and found an average of 1,025 beer cans or beer bottles per mile of road annually; and

WHEREAS, the Aluminum Anonymous Project followed up the survey with "Who's Doing the Tossing?" interviews of professionals working with teens and adults in alcohol and drug settings, and it was estimated that 50 percent of the discarded alcoholic beverage containers were coming from teenagers; and

WHEREAS, in spite of the January 2001 national survey of teenagers by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) that included questions of drinking and drug use while driving and riding, perhaps for the first time at the federal level, too little is known about the alcohol and drug behavior of Kentucky teenagers after the car doors close; and

WHEREAS, the January 2001 report of the National Center on Substance Abuse and Addiction, "Shoveling Up: Impact of Substance Abuse on State Budgets," states that only one percent of the $957 million total that is spent annually on substance abuse problems is for prevention and treatment;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health Services, in cooperation with the Transportation Cabinet, the Justice Cabinet, the Kentucky Agency for Substance Abuse Policy, the Department for Juvenile Justice, the Cabinet for Families and Children, and any other appropriate state agency or commission that deals with or has or should have knowledge of the problem of teenage in-vehicle drinking and related drug use, shall study this problem by:

(1) Assembling what is known about this behavior, its dynamics, prevalence, and incidence;

(2) Identifying gaps in knowledge, program, policy, and interagency interaction; and

(3) Recommending action that should be taken by the involved state agencies and the Kentucky General Assembly.

Section 2. The Cabinet for Health Services shall report by October 1, 2004, to the Governor and the Legislative Research Commission with a recommended plan of action for a policy and program that would comprehensively incorporate teenage in-vehicle drinking and related drug use into the scope of the state's prevention strategies. The report shall include, if appropriate, the identification of new programs along with their estimated costs.

SB 16, AN ACT relating to the report on dispensing prescription medications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.561 is amended to read as follows:

(1) The cabinet shall submit a report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560, on or before October 31, 2003, and every third year thereafter.[~~ Each report shall include a research study on costs incurred by pharmacies in the provision of prescription medications to Medicaid eligible recipients, including but not limited to dispensing fee costs and drug acquisition costs, the current level of dispensing fee provided by the cabinet and other third-party payors, and an estimate of any additional revenues needed to adjust reimbursement to pharmacies.~~] The report shall also include current data on the most utilized and abused drugs in the Kentucky Medicaid program, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, and the effectiveness of the drug formulary and prior authorization process in managing drug costs. The report shall be reviewed by the Drug Management Review Advisory Board created under KRS 205.5636.

[~~(2) Prior to data collection for and analysis of the research study specified in subsection (1) of this section, the Cabinet for Health Services and any person or entity holding a contract to perform the study shall report to the Interim Joint Committee on Health and Welfare with the proposed research methodology for carrying out subsection (1) of this section.~~

~~(3) The research study specified in subsection (1) of this section shall include the following components:~~

~~(a) Recent academic review of the literature, previous research performed for the Department for Medicaid Services, and research from other states to determine the relevant factors to include in the study methodology;~~

~~(b) Analysis of relevant factors that influence dispensing and acquisition costs, including but not limited to:~~

~~1. Urban versus rural location;~~

~~2. Chain versus independent affiliation;~~

~~3. Total prescription volume;~~

~~4. Medicaid volume as a percent of the total volume; and~~

~~5. Profit;~~

~~(c) A representative sample of sufficient size appropriately stratified to make valid estimates of the effects of each of the relevant factors on dispensing and acquisition costs;~~

~~(d) Standard error for each estimate;~~

~~(e) Calculation of a ninety-five percent (95%) confidence interval for each sample estimate;~~

~~(f) Review of statistical tests of significance at the five percent (5%) significance level to determine if the variation in dispensing and acquisition costs occurs across the stratification types included in the study;~~

~~(g) A test for normality;~~

~~(h) Methodology to identify and exclude outliers;~~

~~(i) Analysis of the cost of administering the prior authorization program by the Department for Medicaid Services; and~~

~~(j) Comparison of the differences in reimbursement for dispensing fee costs and for drug acquisition costs between the Kentucky Medicaid program, other states' Medicaid programs, and commercial payors.~~]

(2)[~~(4)~~] A reasonable fee for dispensing prescription medications shall be determined by the Department for Medicaid

Services[~~ based on a review of:~~

~~(a) The findings of the research study required under subsection (1) of this section;~~

~~(b) Dispensing fee reimbursement used by other state Medicaid programs; and~~

~~(c) Dispensing fee reimbursement used by commercial payors~~].

Section 2. KRS 205.6316 is amended to read as follows:

The Cabinet for Health Services shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication; and

(4) A dispensing fee for each prescription[~~ considering the findings of the research study report submitted by the cabinet pursuant to KRS 205.561~~].

SB 40, AN ACT relating to prescriptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy licensed by the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or who is licensed by the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

  (a) A drug administered directly to a patient; or

  (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

  (a) Patient identifier;

  (b) Drug dispensed;

  (c) Date of dispensing;

  (d) Quantity dispensed;

  (e) Prescriber; and

  (f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser.

(6) The Cabinet for Health Services shall be authorized to provide data to:

  (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

  (b) A state, federal, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

  (c) A state-operated Medicaid program;

  (d) A properly convened grand jury pursuant to a subpoena properly issued for the records; ***or***

  (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.[~~; or~~]

(8)[~~(f)~~] A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction***, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B***.

(9)[~~(7)~~] The Cabinet for Health Services, all law enforcement officers, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10)[~~(8)~~] The data and any report obtained therefrom shall not be a public record***, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B***.

(11)[~~(9)~~] Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(12)[~~(10)~~] Knowing disclosure of transmitted data to a person not authorized by subsection (6) ***to subsection (8)*** of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(13)[~~(11)~~] The Governor's Office for Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(14)[~~(12)~~] Provisions in subsections (1) to ***(12)***[~~(10)~~] of this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection ***(13)***[~~(11)~~] of this section.

Section 2. KRS 218A.240 is amended to read as follows:

(1) All police officers and deputy sheriffs directly employed full-time by state, county, city, or urban-county governments, the State Police, the Cabinet for Health Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators,[~~ and~~] to expend funds for the purpose of obtaining evidence***, and to use data obtained under subsection (7) of Section 1 of this Act in any administrative proceeding before the cabinet***.

(3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health Services.

(4) Designated agents of the Cabinet for Health Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

(a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

(b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

(c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his costs, including a reasonable attorney's fee.

(d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his percentage of the funds shall go to the agency initiating the forfeiture action.

(6) The Cabinet for Health Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.

The Committee on Transportation reported **HB 29,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on Transportation reported **HB 141,** with Committee Substitute attached thereto, **HB 191,** with Committee Substitute attached thereto, **HB 313, HB 511,** with Committee Substitute attached thereto, **HB 625, HB 696, HCR 60,** with Committee Amendment attached thereto, **HJR 212,** and **HR 225** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 141, AN ACT relating to mobile infrared electronic transmitters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 189.910 TO 189.950 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "MIRET" means a mobile infrared electronic transmitter, a device that emits an infrared beam or electronic signal and may be used to alter the movement of traffic by changing the lighting cycle of a traffic signal.

(2) A person shall not use a MIRET to change the lighting cycle of a traffic control signal, unless the person is an occupant of an emergency vehicle as defined by KRS 189.910.

(3) Except as provided for in subsection (4) of this section, any person who violates subsection (2) of this section shall:

(a) For the first offense, be fined not more than two hundred fifty dollars ($250); and

(b) For second and subsequent offenses, be guilty of a Class A misdemeanor.

(4) If a person is involved in a motor vehicle collision which involves bodily injury while in violation of subsection (2) of this section, the person shall:

(a) For the first offense, be guilty of a Class A misdemeanor; and

(b) For second and subsequent offenses, be guilty of a Class D felony.

The Committee Substitute to **HB 141** is as follows:

HB 141, AN ACT relating to mobile infrared electronic transmitters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 189.910 TO 189.950 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "MIRET" means a mobile infrared electronic transmitter or similar device that emits an infrared beam or electronic signal and may be used to change the lighting cycle of a traffic control signal.

(2) A person shall not use a MIRET to change the lighting cycle of a traffic control signal, unless the person is an occupant of an emergency vehicle as defined by KRS 189.910 that is responding to or engaged in an emergency situation.

(3) Except as provided for in subsection (4) of this section, any person who violates subsection (2) of this section shall be fined not more than five hundred dollars ($500).

(4) (a) If a person is involved in a motor vehicle collision which involves physical injury as defined by KRS 500.080 while in violation of subsection (2) of this section, the person shall be guilty of a Class B misdemeanor.

(b) If a person is involved in a motor vehicle collision which involves serious physical injury as defined by KRS 500.080 while in violation of subsection (2) of this section, the person shall be guilty of a Class A misdemeanor.

HB 191, AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) All statutes to the contrary notwithstanding, the cabinet shall amend its policies and administrative regulations governing highway signage that are in effect on the effective date of this Act, to erect recreational and cultural interest area signs that meet the requirements of subsection (2) of this section at the following locations:

(a) On Interstate 24 in McCracken County as near as possible to the Kentucky/Illinois State line;

(b) On Interstate 24 in Christian County as near as possible to the Kentucky/Tennessee State line;

(c) On the Julian Carroll Parkway, also known as the Interstate 69 Corridor, in Fulton County as near as possible to the Kentucky/Tennessee State line;

(d) On the future segment of Interstate 66 in Ballard County as near as possible to the Kentucky/Missouri State line;

(e) On the Wendell H. Ford Western Kentucky Parkway in Hopkins County just west of the junction with the

Edward T. Breathitt Parkway;

(f) On United States Route 51 in Fulton County as near as possible to the junction with the Julian Carroll Parkway and in Ballard County as near as possible to the Kentucky/Missouri State line;

(g) On United States Route 60 in Ballard County as near as possible to the Kentucky/Missouri State line and in McCracken County as near as possible to the junction with Interstate 24;

(h) On United States Route 62 in McCracken County as near as possible to the junction with Interstate 24 and in Marshall County as near as possible to the junction with the Julian Carroll Parkway;

(i) On United States Route 68 in Trigg County as near as possible to the junction with Interstate 24;

(j) On United States Route 641 in Calloway County as near as possible to the Kentucky/Tennessee State line;

(k) On Kentucky Route 91 in Crittenden County as near as possible to the Kentucky/Illinois State line; and

(l) On Kentucky Route 135 in Livingston County as near as possible to the Kentucky/Illinois State line.

(2) The recreational and cultural interest area signs required to be erected under subsection (1) of this section shall conform to the standards established in the federal Manual on Uniform Traffic Control Devices published by the United States Department of Transportation. The signs shall at a minimum contain a slogan that promotes the Kentucky Lake and Barkley Lake areas. The slogan shall be developed by the group Kentucky Western Waterlands and shall be subject to the approval of the cabinet. The signs may also contain one (1) or more symbols at the discretion of the group Kentucky Western Waterlands.

(3) The cabinet shall within six (6) months of the effective date of this Act erect recreational and cultural interest area signs that meet the requirements of subsection (2) of this section at the locations required under subsection (1) of this section.

(4) The cabinet shall not, after the effective date of this Act, adopt policies or promulgate administrative regulations that conflict with the provisions of this section.

The Committee Substitute to **HB 191** is as follows:

HB 191, AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) All statutes to the contrary notwithstanding, the cabinet shall amend its policies and administrative regulations governing highway signage that are in effect on the effective date of this Act, to erect recreational and cultural interest area signs that meet the requirements of subsection (2) of this section at the following locations:

(a) On eastbound Interstate 24 in McCracken County as near as possible to the Kentucky/Illinois State line;

(b) On westbound Interstate 24 in Christian County as near as possible to the Kentucky/Tennessee State line;

(c) On northbound Julian Carroll Purchase Parkway as near as possible to the Kentucky/Tennessee State line; and

(d) On westbound Wendell H. Ford Western Kentucky Parkway in Hopkins County at the Dawson Springs exit.

(2) The recreational and cultural interest area signs required to be erected under subsection (1) of this section shall conform to the standards established in the federal Manual on Uniform Traffic Control Devices published by the United States Department of Transportation. The signs shall at a minimum contain a slogan that promotes the Kentucky Lake and Barkley Lake areas. The slogan shall be developed by the group Kentucky Western Waterlands and shall be subject to the approval of the cabinet. The signs may also contain one (1) or more symbols at the discretion of the group Kentucky Western Waterlands.

(3) The cabinet shall within six (6) months of the effective date of this Act erect recreational and cultural interest area signs that meet the requirements of subsection (2) of this section at the locations required under subsection (1) of this section.

(4) The cabinet shall not, after the effective date of this Act, adopt policies or promulgate administrative regulations that conflict with the provisions of this section.

HB 313, AN ACT relating to window tinting on motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.110 is amended to read as follows:

(1) *As used in this section:*

(a) "Limousine" means a limousine as defined by KRS 281.014(1)(d) operating under a limousine certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by another state; and

(b) "Multipurpose passenger vehicle" means a motor vehicle designed to carry not more than ten (10) individuals that is constructed either on a truck chassis or with special features for occasional off-road operation.

(2) A windshield in a fixed and upright position, that is equipped with safety glazing as required by federal safety-glazing material standards, is required on every motor vehicle which is operated on the public highways, roads, and streets, except on a motorcycle or implement of husbandry.

(3)[~~(2)~~] A person shall not operate a motor vehicle on a public highway, road, or street with any sign, sunscreening material, product, or covering attached to, or located in or upon the windshield, except the following:

(a) A certificate or other paper required to be displayed by law;

(b) Sunscreening material along a strip at the top of the windshield, if the material is transparent and does not encroach upon the driver's direct forward viewing area as defined in Federal Motor Vehicle Safety Standards No. 205 as the AS/1 portion of the windshield.

(4)[~~(3)~~] A person shall not operate a motor vehicle required to be registered in the Commonwealth, on a public highway, road, or street on which vehicle the side wings and side windows on either side forward of or adjacent to the operator's seat are composed of, covered by, or treated with any sunscreening material or other product or covering which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as expressly permitted by this section. A sunscreening material may be applied to the windows if, when tested on ***the window to which it has been applied***[~~one eighth (1/8) inch clear glass~~], the material has a total solar reflectance of visible light of not more than twenty-five percent (25%) as measured on the nonfilm side and a light transmittance of at least ***twenty-five***[~~thirty-five~~] percent ***(25%)***[~~(35%)~~] in the visible light range.

(5)[~~(4)~~] A person shall not operate a motor vehicle required to be registered in the Commonwealth, on a public highway, road, or street on which vehicle any windows behind the driver are composed of, covered by, or treated with any sunscreening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as specified below:

(a) Sunscreen material consisting of film which, when tested on ***the window to which it has been applied***[~~one eighth (1/8) inch clear glass~~], has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eighteen percent (18%) in the visible light range; however, sunscreen material which, when tested on ***the window to which it has been applied***[~~one eighth (1/8) inch clear glass~~], has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eight percent (8%) in the visible light range may be used on multipurpose passenger vehicles ***or limousines***;

(b) Perforated sunscreening material which, when tested in conjunction with existing glazing or film material, has a total reflectance of visible light of not more than thirty-five percent (35%) and a light transmittance of no less than thirty percent (30%). For those products or materials having different levels of reflectance, the highest reflectance from the product or material will be measured by dividing the area into sixteen (16) equal sections and averaging the overall reflectance. The measured reflectance of any of those sections may not exceed fifty percent (50%).

(6)[~~(5)~~] A person shall not operate a motor vehicle required to be registered in the Commonwealth, upon a public highway, road, or street, on which vehicle the rear window is composed of, covered by, or treated with any material which has the effect of making the window nontransparent, unless the vehicle is equipped with side mirrors on both sides.

(7)[~~(6)~~] Each installer or seller of sunscreening material shall provide a pressure-sensitive, self-destructive, nonremovable, vinyl-type film label to the purchaser stating that the material complies with the provisions of KRS 189.010(20) to (23) and subsections ***(2)***[~~(1)~~] to ***(6)***[~~(5)~~] of this section. Each installer shall affix the required label to the inside left door jamb of the motor vehicle. In addition, the label shall state the trade name of the material and the installer's or seller's business name. Labeling is not required for factory glazing which complies with Federal Motor Vehicle Safety Standard No. 205.

(8)[~~(7)~~] Every percentage measurement required by subsections ***(4)***[~~(3)~~] and ***(5)***[~~(4)~~] of this section is subject to a tolerance of plus or minus three percent (3%).

(9)[~~(8)~~] A person shall not install window tinting materials on a vehicle that fails to meet the minimum standards for light transmission pursuant to subsections ***(4)***[~~(3)~~] and ***(5)***[~~(4)~~] of this section. Tinted material that fails to meet the minimum standards for light transmission pursuant to subsections ***(4)***[~~(3)~~] and ***(5)***[~~(4)~~] of this section shall be removed immediately.

(10)[~~(9)~~] A person who applies sunscreening materials in violation of this section shall be guilty upon conviction of a Class B misdemeanor.

(11)[~~(10)~~] Nothing in this section shall prevent the display of a representation of the American flag on the rear window of any motor vehicle, including any vehicle owned by a local or state government, provided that the representation does not exceed a size of five (5) inches by eight (8) inches and is placed in a lower corner of the rear window.

(12)[~~(11)~~] The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be so constructed as to be controlled by the operator of the vehicle.

(13)[~~(12)~~] Nothing in this section shall be construed to prevent the use of any window which is composed of, covered by, or treated with any material or component in a manner approved by federal statute or regulation if the window was a component part of a vehicle at the time of the vehicle manufacture, or the replacement of any window by a covering which meets these requirements.

HB 511, AN ACT relating to proof of motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.065 is amended to read as follows:

(1) Except as otherwise provided, before the owner of a motor vehicle or trailer may operate it or permit its operation upon the highways of this state, he shall obtain motor vehicle insurance as required by KRS 304.39-080, a certificate of registration, and a license plate and apply for a certificate of title in his name.

(2) The owner of a motor vehicle shall keep a copy of his or her certificate of insurance coverage in the motor vehicle at all times in compliance with Section 2 of this Act.

Section 2. KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. The owner shall keep the card in his motor vehicle as prima facie evidence that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(2) Failure to maintain an insurance card in a motor vehicle, as required by this section, shall create a presumption that the vehicle does not have coverage in compliance with the provisions of this subtitle. In this instance, it is the responsibility of the owner of the motor vehicle to provide the court with proof that the owner had insurance as required by this subtitle at the time he or she was issued a citation for a violation of this section.

The Committee Substitute to **HB 511** is as follows:

HB 511, AN ACT relating to proof of motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.065 is amended to read as follows:

(1) Except as otherwise provided, before the owner of a motor vehicle or trailer may operate it or permit its operation upon the highways of this state, he shall obtain motor vehicle insurance as required by KRS 304.39-080, a certificate of registration, and a license plate and apply for a certificate of title in his name.

(2) The owner of a motor vehicle shall keep a copy of his or her insurance card issued under Section 2 of this Act in the motor vehicle at all times.

Section 2. KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. The owner shall keep the card in his motor vehicle as prima facie evidence that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(2) Failure to maintain an insurance card in a motor vehicle, as required by this section, shall be prima facie evidence that the vehicle does not have coverage in compliance with the provisions of this subtitle.

HB 625, AN ACT relating to commercial driver's licenses and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

(1) Any person applying for an initial, transfer, or renewal hazardous materials endorsement on a commercial driver's license shall, in addition to complying with the skills and knowledge tests, be required to submit to a fingerprint verified national criminal records check.

(2) All fingerprints required under this section shall be taken by the Kentucky State Police and forwarded to the Federal Bureau of Investigation as required under 49 U.S.C. sec. 5103a.

(3) In addition to the fees required under KRS 281A.150(2), an applicant for an initial, transfer, or renewal hazardous materials endorsement on a commercial driver's license shall pay a fee to reimburse the Kentucky State Police for the costs associated with obtaining a fingerprint verified national criminal records check. The fee under this subsection shall be fifty-five dollars ($55) plus the actual amount that the Federal Bureau of Investigation charges the State

Police for processing the request.

(4) The State Police may promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section, 49 U.S.C. sec. 5103a, and 49 CFR 383 and 1570 to 1572.

Section 2. Because 49 CFR 383 mandates that prior to April 1, 2004, states must implement statutory provisions requiring commercial driver's license holders requesting or renewing a hazardous materials endorsement to submit to a fingerprint verified nation criminal records check or suffer a penalty of being unable to issue commercial driver's licenses, a state of emergency is declared to exist and this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 696, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. Except as provided in subsection (9) of this section, a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;
2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
3. Received a hardship discharge;
4. Was separated or retired due to a disability; or
5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and KRS 186.174:

(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge.

(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (11) of this section;
2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and
3. Members of the National Guard licensed under subsection (13) of this section.

(c) The initial ***and renewal*** registration *fees*[~~fee~~] shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section[~~, and the renewal registration fee shall be a twelve dollar ($12) state fee~~] that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;
2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;
3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and
4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.

(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under KRS 186.174.

(3) The initial state fee collected under subsections (2)(b) and (2)(c)***, and the renewal fee collected under subsection (2)(c)*** of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the~~[initial]~~ state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the~~[initial]~~ state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Transportation Cabinet who shall forward the ***five dollar ($5) fee***~~[money]~~ to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under ***subsection (2)(a) or (2)(b) of*** this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).

(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section and KRS 186.174, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month and shall be a five (5) year license plate. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. A license plate issued under this section may be combined with a personalized license plate under the provisions of KRS 186.174.

(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple

Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(11) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(12) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.

(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.

(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;

2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;

3. A veteran's decal may further indicate a veteran's service in a wartime era; and

4. A registration number.

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.

(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.

(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section or a combined personalized/special military license plate issued under KRS 186.174, shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the plate being surrendered.

(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.

(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(20) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

Section 2. KRS 186.171 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25), owners and lessees of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the United States Congress shall be issued an additional five (5) year license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of the applicant's senatorial or congressional district (i.e., U.S. SENATE-1 or U.S. REPRESENTATIVE-6), and in place of the county name, the word "CONGRESS" and the licensing period for which the plate is issued.

(2) Applications shall be filed with the county clerk of the county in which the congressman resides and the clerk shall forward the applications along with the twenty-five dollar ($25) fee promptly to the Transportation Cabinet, noting thereon the current registration number of the vehicle for which the special congressional plate is being sought. The cabinet shall send the congressional plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the congressional license plate and receive fourteen dollars fifty cents ($14.50), three dollars ($3) of which shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) which shall constitute the cabinet's fee. Annually thereafter, upon application as provided above, ***a member of Congress shall be issued a renewal decal upon payment of a state fee of seventeen dollars ($17) and a three dollar ($3) county clerk fee. The state fee shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12), which includes the cost to reflectorize the license plate under KRS 186.240, and the Department of Veterans' Affairs shall receive five dollars ($5). The county clerk shall forward money collected under this subsection to the Transportation Cabinet which shall forward the five dollar ($5) fee to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)***[~~and after payment of fourteen dollars fifty cents ($14.50), three dollars ($3) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration~~]. The decal shall be affixed to the five (5) year registration plate.

(3) Upon the sale or transfer of the motor vehicle bearing a congressional plate, the owner or lessee shall remove same and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle can then be transferred as provided in KRS Chapter 186.

(4) When the congressional plate has been presented to the clerk, he shall reissue same free from payment to the Transportation Cabinet and two dollar ($2) clerk's fee for use on any other vehicle owned or leased by the same person purchasing the congressional plate for the current license period.

(5) If a congressional plate, within five (5) years of the date of issue, deteriorates to the point where inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate free of charge.

(6) Upon termination of membership from the United States Senate or House of Representatives, an applicant to whom a plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.

(7) Any applicant seeking to obtain a license plate according to this section, for a vehicle provided pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(8) Registration under this section shall expire December 31.

(9) The secretary of transportation may promulgate administrative regulations necessary to further the purposes of this section.

Section 3. KRS 186.178 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25) per plate, owners and lessees of motor vehicles that are required to be registered under the provisions of KRS 186.050(1) or (3)(a), who are duly elected members of the General Assembly, shall be issued no more than two (2) five (5) year license plates for use on no more than two (2) vehicles owned by the applicant, and the design of which, in lieu of the usual registration number, shall be as follows: the lower one-fourth (1/4) section shall indicate whether the applicant is a Senator or Representative (i.e. STATE SENATOR or STATE REPRESENTATIVE); the upper one-fourth (1/4) section shall have the word KENTUCKY; the remaining middle section shall have the seal of the Commonwealth of Kentucky on the far left and the district number of the applicant in the center. If a member of the General Assembly is issued two (2) license plates under the provisions of this section, the second shall have a unique identifier following the district number.

(2) Any person who has been sworn as a member of the General Assembly, or who has received his certificate of election to the General Assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, if the term of office to which he was elected shall not expire before the end of the licensing

period, and if that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles. Provisions of this subsection shall apply only if the current office holder does not have a special license plate.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications along with the appropriate fee promptly to the Transportation Cabinet, noting thereon the current registration number of the vehicle for which a special legislative plate is being sought. The cabinet shall send the legislative plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the legislative license plate and receive fourteen dollars fifty cents ($14.50) for each vehicle registered, of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter, upon application as provided above***, a member of the General Assembly shall be issued a renewal decal upon payment of a state fee of seventeen dollars ($17) and a three dollar ($3) county clerk fee. The state fee shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12), which includes the cost to reflectorize the license plate under KRS 186.240, and the Department of Veterans' Affairs shall receive five dollars ($5). The county clerk shall forward money collected under this subsection to the Transportation Cabinet which shall forward the five dollar ($5) fee to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)***~~[and after payment of fourteen dollars fifty cents ($14.50) per vehicle registered, three dollars ($3) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration]~~. The decal shall be affixed to the five (5) year registration plate.

(4) Upon the sale, transfer, or termination of lease of a vehicle bearing the special legislative license plate, the owner or lessee shall remove it and return it and certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. This vehicle may then be transferred as provided in KRS Chapter 186.

(5) When a legislative plate has been presented to the clerk, he shall reissue it for a two dollar ($2) clerk's fee and free from payment to the Transportation Cabinet for use on any other vehicle owned or leased by the same person purchasing the legislative plate for the current period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) Upon termination of membership for the General Assembly of the Commonwealth of Kentucky, an applicant to whom a plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.

(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(8) If a legislative plate, within five (5) years of the date of its issue, deteriorates to the point that the inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate free of charge.

(9) Special legislative registration under this section shall expire on December 31 of the year purchased.

(10) The secretary of the Transportation Cabinet shall promulgate administrative regulations, and prescribe forms necessary to further the purpose of this section.

Section 4. KRS 186.179 is amended to read as follows:

(1) Upon application for each licensing period, owners and lessees of motor vehicles that are required to be registered under the provisions of KRS 186.050(1) or (3)(a), who are duly elected or appointed Justices or Judges of the Court of Justice, shall be issued two (2) additional five (5) year license plates for an additional license fee of twenty-five dollars ($25).

(2) On license plates for Justices of the Supreme Court, other than the Chief Justice, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the initials "JSC" followed by the Supreme Court district from which they serve, and in lieu of the county name, the words "SUPREME COURT." On the plates issued to the Chief Justice shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "CHIEF JUSTICE."

(3) On the plates for Judges of the Court of Appeals, other than the Chief Judge, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the appellate district from which they serve, followed by the initials "CA", followed by the division number which they serve, and in lieu of the county name the words "COURT OF APPEALS." On plates issued to the Chief Judge shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "COURT OF APPEALS."

(4) On the plates for Circuit Judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the number of the judicial circuit which they serve followed by the initial "C", followed by the number of the division which they serve, if any, and in lieu of the county name, the word "JUDICIARY."

(5) On the plates for District Judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the number of the judicial district which they serve, followed by the initial "D", followed by the number of the division which they serve, if any, and in lieu of the county name, the word "JUDICIARY."

(6) Any person who has been sworn as a Justice or Judge of the Court of Justice, or who has received his certificate of election to the Court of Justice and whose election is not being challenged, may apply for the special judicial license plates authorized by this section, if the term of office to which he was elected shall not expire before the end of the licensing period, and if that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles. Provisions of this subsection shall apply only if the incumbent judge does not have a special license plate.

(7) Applications shall be filed with the county clerk of the county in which the judge resides and the clerk shall forward the applications along with the twenty-five dollar ($25) initial registration fee promptly to the Transportation Cabinet, noting thereon the current registration number of the vehicle for which the special judicial plates are being sought. The cabinet shall send the judicial plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the judicial license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. The judge shall attach the special judicial plates to the vehicle licensed, one (1) license plate attached to the front of the vehicle, and one (1) license plate attached to the rear of the vehicle. Annually thereafter, upon application as provided above***, a member of the Judiciary shall be issued a renewal decal upon payment of a state fee of five dollars ($5) and a three dollar ($3) county clerk fee. The state fee shall be designated for the Department of Veterans' Affairs. The county clerk shall forward money collected under this subsection to the Transportation Cabinet which shall forward the five dollar ($5) fee to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)***[~~and without payment of the initial registration fee to the cabinet, the clerk shall issue a decal or decals to renew the vehicle's registration for a three dollar ($3) fee~~]. The decal or decals shall be affixed to the special judicial plate or plates as prescribed by the cabinet.

(8) Upon the sale, transfer, or termination of lease of a vehicle bearing the special judicial license plates, the owner or lessee shall remove them and return it and certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. This vehicle may then be transferred as provided in KRS Chapter 186.

(9) When the judicial plate has been presented to the clerk, he shall reissue it for a two dollar ($2) clerk's fee and free from payment to the Transportation Cabinet for use on any other vehicle owned or leased by the same person purchasing the judicial plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort. Upon completion of term as a judge or justice as described in this section, the person to whom a judicial plate was issued shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.

(10) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(11) If the special judicial plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate free of charge.

(12) Registration under this section shall expire on December 31.

(13) The secretary of the Transportation Cabinet shall promulgate administrative regulations, and prescribe forms necessary to further the purpose of this section.

HCR 60, A CONCURRENT RESOLUTION proclaiming May 24th Aircraft Maintenance Technician Day in honor of the first aircraft maintenance technician, Charles Edward Taylor.

WHEREAS, few moments in history have done more to capture the essence of the American spirit than the Wright brothers' historic first flight at Kitty Hawk, North Carolina, 12 seconds that changed the world; and

WHEREAS, on December 17, 2003, people from across the United States will be celebrating the First Flight Centennial Celebration highlighting the 100th anniversary of powered flight; and

WHEREAS, on December 17, 1903, at the base of Kill Devil Hills, south of the village of Kitty Hawk, North Carolina, the Wright brothers, assisted by a little known mechanic named Charles Edward Taylor, made aviation history by successfully flying the first powered airplane; and

WHEREAS, this achievement would not have been possible if it were not for Charles Edward Taylor, who built the first engine for Orville and Wilbur Wright's airplane named "The Flyer"; and

WHEREAS, although everyone knows the story of Orville and Wilbur Wright, most have never heard of Charles Edward Taylor, the unsung hero who was the first aircraft mechanic in powered flight, and the man responsible for pioneering uncharted theories of engine design by using only a lathe and drill press to construct a four cylinder piston engine weighting 179 pounds and producing 12 horsepower in just six weeks; and

WHEREAS, after the first successful flights in 1903, Mr. Taylor performed all of the preliminary engine design work for the Wright brothers and later taught them to build aircraft engines; and

WHEREAS, aircraft maintenance technicians from all over the United States recognize Mr. Taylor as a pioneer in their field; and

WHEREAS, aircraft maintenance technicians are all too often the unsung heroes whose achievements and importance are overlooked, even though without their dedicated work, the safe air travel we take for granted would not be possible; and

WHEREAS, Kentucky is joining the ranks of states such as Tennessee, Illinois, Wisconsin, North Carolina, Arizona, California, and many others in honoring the memory of one of aviation's founders and recognizing the men and women responsible for keeping all airplanes safe for flight;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. This honorable body does hereby proclaim May 24, the birthday of Charles Edward Taylor, as Aircraft Maintenance Technician Day in honor of Charles Edward Taylor and all aircraft maintenance technicians for their dedication to safety and pursuit of excellence in flight.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit one copy each of this Resolution to: the Aviation Museum of Kentucky, P.O. Box 4118, Lexington, KY 40544; David Curtis, FAA A&P/IA, 6327 Briargate Drive, Burlington, KY 41005; Kentucky Aviation Association, 1453 Stoner Ridge, Hermitage, TN 37076; and Mike Stevens, Manager AFSS, FAA Building, Bowman Field, 2700 Moran Avenue, Louisville, KY 40205.

The Committee Amendment No. 1 to **HCR 60** is as follows:

HCR 60, On page 1, in the second WHEREAS clause by deleting the phrase "will be celebrating" and inserting in lieu thereof the word "celebrated".

HJR 212, A JOINT RESOLUTION naming the "Reverend Hobart Dail Sowders Memorial Highway" in Bell County.

WHEREAS, Reverend Hobart Dail Sowders ministered to the citizens of Bell County for most of his adult life, serving as a choir director, Sunday school teacher, and youth minister before formally announcing his calling to preach in 1985; and

WHEREAS, Reverend Hobart Dail Sowders started a radio ministry in 1987 and in 1990 organized the Gospel Outreach Baptist Church, which he pastored until his untimely death; and

WHEREAS, Reverend Hobart Dail Sowders served as chaplain for the Middlesboro Police Department and the Bell County Sheriff's Department, on call 24 hours a day, seven days a week; and

WHEREAS, local funeral directors called on Reverend Sowders to counsel and minister to grief stricken relatives and friends of the recently departed; and

WHEREAS, Reverend Hobart Dail Sowders, who was also the owner of Sowder's Grocery and Deli in Middlesboro, never turned away hungry folks from his business; he also organized and ran a local food pantry and soup kitchen; and

WHEREAS, Reverend Hobart Dail Sowders took the biblical lesson of the Good Samaritan to heart by opening his home and hearth to those less fortunate who were in need and by providing them with food, shelter, and clothing; and

WHEREAS, on September 10, 2002, Reverend Hobart Dail Sowders was tragically shot and killed by an individual to whom he had given shelter in his home; and

WHEREAS, Reverend Hobart Dail Sowders was described by his friends as a big man with a big heart who loved everyone; and

WHEREAS, we should be mindful of the life of charity led by Reverend Sowders, and strive to emulate it in our own way every day; and

WHEREAS, the lifetime of ministry by Reverend Hobart Dail Sowders should be remembered and honored in some tangible way;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, proclaim Reverend Hobart Dail Sowders to have been an exemplary representative of the Commonwealth and join all the people whose lives he touched in mourning his passing.

Section 2. The Transportation Cabinet is directed to designate Kentucky Route 74 in Bell County as the "Reverend Hobart Dail Sowders Memorial Highway," and to erect signs identifying this route within 30 days of the effective date of this Resolution.

HR 225, A RESOLUTION urging the United States Congress to direct the construction of Interstate 66 through the Purchase Area of Western Kentucky.

WHEREAS, Kentucky lies in the heart of our nation and at the crossroads of the industrial North, the Eastern Seaboard, and the burgeoning Sunbelt; and

WHEREAS, transportation of goods and persons by ground has become increasingly important to the economy of our great nation; and

WHEREAS, the U.S. Interstate Highway System is one of the greatest engineering accomplishments in the history of mankind and has made our nation's system of highways the best in the world; and

WHEREAS, with its location on both the Ohio and Mississippi Rivers, the Purchase Area of Western Kentucky is situated at a crucial point in America's intermodal transportation system; and

WHEREAS, plans are underway for the development of Interstate 66, with a projected route through Southern Kentucky; and

WHEREAS, current changes in these plans have resulted in Interstate 66 ending at Interstate 24 before it enters the Purchase Area; and

WHEREAS, the extension of this route through the Purchase Area counties of McCracken and Ballard and into Missouri is crucial to fully realizing the benefits of an intermodal transportation system utilizing interstate highways, rail lines, and the many Kentucky riverports in the area; and

WHEREAS, it is vital that our national leaders understand the importance and urgency of this situation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, urge the United States Congress to plan for and fund the design and construction of Interstate 66 from Interstate 24 through McCracken and Ballard counties in Kentucky and into Missouri, with a bridge over the Mississippi River near Wickliffe.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Clerk of the United States Senate, the Clerk of the United States House of Representatives, each member of Kentucky's Congressional delegation, and to Kentucky Transportation Cabinet Secretary Maxwell C. Bailey.

The Committee on Economic Development reported **HB 593,** with Committee Substitute attached thereto, and **SB 248,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 593, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147.075 is amended to read as follows:

As used in KRS 147.070 to 147.120 the term "Governor's Cabinet" shall mean the "Governor's Executive Cabinet" and such other persons as the Governor may designate to compose the membership of the "State Planning Committee. "The Governor shall serve as chairman of the State Planning Committee, ***and shall appoint a vice chairman from committee membership at his or her discretion.*** The~~[secretary of the Cabinet for Economic Development shall serve as vice chairman, and the]~~ special assistant to the Governor for budget and management shall serve as secretary.

Section 2. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

  (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

  (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

  (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

  (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

    1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

      a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

      b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;
(b) Transportation, communications and public utilities;
(c) Wholesale and retail trade;
(d) Finance, insurance, and real estate; and
(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;
2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;
3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and
4. The new construction of an electric generation facility;

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 3. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) ***The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the project may be terminated at the discretion of the authority.***

(7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(8)[~~(7)~~] The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(9)[~~(8)~~] The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(10)[~~(9)~~] The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(11)[~~(10)~~] The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(12)[~~(11)~~] The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13)[~~(12)~~] All remedies provided in subsection *(12)*[~~(11)~~] of this section shall be deemed to be cumulative.

Section 4. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;
3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;
4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;
(b) Transportation, communications, and public utilities;
(c) Wholesale and retail trade;
(d) Finance, insurance, and real estate; and
(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means:

(a) A ***new or expanded service or technology activity conducted at a new or expanded site by:***

1. An approved company; or

2. An approved company and its affiliate or affiliates[~~service or technology activity conducted by an approved company~~]; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;
2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other

surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13) "Local government" means a city, county, or urban-county government;

(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15) ***"Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;***

(16) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(17)[~~(16)~~] "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18)[~~(17)~~] "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19)[~~(18)~~] "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

[~~(19) "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;~~]

(20) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy***, including***[~~ that includes~~] but[~~ is~~] not limited to property taxes, heating and air conditioning, electricity, ***water,*** sewer, and insurance;

(21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22) *(a)* "Service or technology" means ***either:***

1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state[~~any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication~~];

(23) "Start-up costs" *means*[~~mean~~] the *acquisition* cost *associated with the project and related to*[~~of~~] furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and *the relocation of out-of-state equipment,*[~~relocation costs~~] as verified and approved by the authority in accordance with KRS 154.23-040;

(24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 5. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the Cabinet for Workforce Development:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) ***If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the authority***[~~Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county~~].

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 6. KRS 154.23-025 is amended to read as follows:

(1) Relevant standards for approval of eligible companies and economic development projects shall include but are not limited to creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.

(2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:

(a) A minimum investment of one hundred thousand dollars ($100,000) in the project;

(b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees ***by the activation date as set forth in Section 7 or Section 8 of this Act***;

(c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and

(d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.

(3) (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project is one:

1. a. That rehabilitates a manufacturing or service or technology facility that has not been in operation; or

b. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

c. To which the title is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;

2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.

(b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

Section 7. KRS 154.23-035 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into a tax incentive agreement with any approved company engaged in manufacturing activities with respect to its economic development project. The terms and provisions of each tax incentive agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the

full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(5) The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in KRS 154.23-025(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.401, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company each year.

(8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended ***for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the project may be terminated at the discretion of the authority***~~[until at least ten (10) full-time qualified employees are employed by the approved company at the project site]~~.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company***, pursuant to subsection (11) of this section***;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

(14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

Section 8. KRS 154.23-040 is amended to read as follows:

(1) Before any approved company engaged in service or technology activity is granted inducements under KRS 154.23-005 to 154.23-079, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall ***commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date***~~[not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year time period after the date of final approval of the service and technology agreement by the authority]~~.

(b) The service and technology agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the service and technology agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of Section 6 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the

requirements; however, the ten (10) year period for the term of the service and technology agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of Section 6 of this Act within two (2) years from the date of final approval of the service and technology agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(c) In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(d)[~~(b)~~] The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and
2. The assessment, if applicable, withheld by the approved company in each year;

(e)[~~(c)~~] The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(f)[~~(d)~~] If the total number of ***full-time*** qualified employees at the site of the economic development project is less than ten (10), ***or in the case of an existing business the approved company fails to maintain the increase of at least ten (10) full-time qualified employees,*** the authorized inducements shall be suspended ***for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the project may be terminated at the discretion of the authority***[~~until at least ten (10) full-time qualified employees are employed by the approved company at the project site~~];

(g)[~~(e)~~] The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(h)[~~(f)~~] The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(3) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(4) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(5) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

Section 9. KRS 154.23-055 is amended to read as follows:

(1) If the local jurisdiction in which the economic development project is to be located, approves the assessment in accordance with subsection (8) of this section, then an approved company engaged in either manufacturing or service or technology activities***, or, with the authority's consent, an affiliate of the approved company,*** may require each qualified statewide employee, as a condition to employment, to agree to pay an assessment in an amount determined by the percentage of the local occupational license fee, which shall be one-fifth (1/5) of the total assessment, plus the Commonwealth's contribution of four-fifths (4/5) of the total assessment, but in no event to exceed five percent (5%) of the qualified statewide employee's gross wages exclusive of any noncash benefits; provided that each qualified statewide employee

paying the assessment shall be entitled to credits against Kentucky income tax as prescribed in subsection (4) of this section and to credits against the local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction. This assessment shall be deducted by the approved company from wages it pays to qualified statewide employees.

(2) Notwithstanding subsection (1) of this section, if no local occupational license fee is assessed by any local government in which the project is located, the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth.

(3) Notwithstanding subsection (1) of this section, if a project is located in only one (1) local government and that local government has a local occupational license fee that is less than one percent (1%) and the local government agrees to forgo all of its local occupational license fee or if a project is located in multiple local governments and the local governments have in the aggregate local occupational license fees that are less than one percent (1%) and the local governments agree to forgo all of their local occupational license fees, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee or fees, as applicable, that the local government or local governments, as applicable, has or have agreed to forgo.

(4) Each qualified statewide employee required to pay this assessment shall be entitled to certain credits, as follows:

(a) Credit against the required Kentucky income tax withheld from gross wages under KRS 141.310 equal to the Commonwealth's contribution, but in no event to exceed four percent (4%) of these wages; and

(b) Credit against the local occupational license fee imposed by any local government in which the project is located in the form of a simultaneous adjustment of the local occupational license fee withheld from gross wages excluding noncash benefits not to exceed one percent (1%) of these wages.

(5) If more than one (1) local government jurisdiction imposes a local occupational license fee and all jurisdictions approve the assessment, then the assessment and employee credit therefor shall be prorated against the local occupational license fees imposed, unless a single local government jurisdiction agrees to forgo receipt of its local occupational license fees in an amount equal to one percent (1%) of the qualified statewide employees' wages excluding noncash benefits, in which case no proration need be made.

(6) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.

(7) An approved company that collects an assessment shall make its payroll, books, and records available to the authority at its request, and shall provide all documentation pertaining to the assessment as the authority may require.

(8) Before any tax incentive agreement or service and technology agreement becomes effective with respect to an assessment, the legislative body of any local government that assesses a local occupational license fee and shall lose revenue as a result of the assessment described in this section shall, by official action, approve the assessment for the benefit of an approved company. However, if a local government does not approve the assessment, then the approved company shall not be permitted to impose the assessment and the qualified statewide employees shall not be permitted to claim credits.

(9) Any assessment of the wages of qualified statewide employees of an approved company engaged in service or technology activities in connection with their employment at an economic development project shall permanently cease at the expiration of the service and technology agreement.

Section 10. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means ***a new or expanded service or technology activity conducted at a new or expanded site by:***

(a) An approved company; or

(b) An approved company and its affiliate or affiliates[~~a service or technology activity conducted by an approved company~~];

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) [~~"Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;~~

~~(19)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(19) (a)[~~(20)~~] "Service or technology" means ***either:***

1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state[~~any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity~~

~~in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity~~]; and

(20)[~~(21)~~] "Start-up costs" means the acquisition cost ***associated with the project related to the***[~~of~~] furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, ***the relocation of out-of-state equipment***[~~relocation costs~~], and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 11. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within two (2) years after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least fifteen (15) full-time employees who are residents of the Commonwealth and subject to the Kentucky income tax, the authorized inducements shall be suspended ***for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the project may be terminated at the discretion of the authority***[~~until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax equals or exceeds fifteen (15); or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied~~];

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended ***for a period of up to one (1) year. If the percentage of these services does not exceed seventy-five percent (75%) within one (1) year from the initial date of suspension, the project may be terminated at the discretion of the authority***[~~until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company~~]; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 12. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, ***the amount of the license tax credit pursuant to Section 14 of this Act, and any limitations the authority may deem necessary,*** shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) ***The amount the approved company may recover through inducements under this subchapter shall not exceed seventy-five percent (75%) of approved costs.***

(b) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant***.***[~~;~~]

(c)[~~(b)~~]In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;

2. A credit against the Kentucky license tax imposed by KRS 136.070[~~ on the capital of the approved company generated by or arising out of the economic revitalization project~~] as determined under KRS

136.0704; plus

3. The aggregate assessment withheld by the approved company in each year;

(d)[~~(c)~~]The tax ***credits***[~~credit~~] allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or ***the amount that the company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved cost~~] that has not yet been recovered,[~~ which fifty percent (50%) shall be~~] reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the ***amount that the company may recover under paragraph (a) of this subsection***[~~entire fifty percent (50%) of the approved cost~~] has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section;

(e)[~~(d)~~]The agreement shall provide that ***the***[~~:~~

~~1. The~~] term shall not be longer than the earlier of:

1.[~~a.~~] The date on which the approved company has received inducements or ***withheld***[~~withholds~~] assessments equal to ***the amount that the company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved costs of its economic revitalization project~~]; or

2.[~~b.~~] Ten (10) years from the date of the execution of the agreement.

(f)[~~2.~~] Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1.[~~a.~~] A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

2.[~~b.~~] In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

(g) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(h)[~~3.~~] If in any fiscal year of the approved company during which the agreement is in effect the total of the ***tax credits***[~~income tax credit~~] granted to the approved company plus the assessment collected from the wages of the employees exceeds ***the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved costs then expended~~], the approved company shall pay the excess to the Commonwealth as income tax.

(i)[~~4.~~] If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds ***the expended portion of the amount that the approved company may recover under paragraph (a) of this section***[~~fifty percent (50%) of the approved costs then expended~~], the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(j)[~~(e)~~] All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, ***it shall not assess the wages of***

an employee who is party to an individual employment contract with the approved company[~~a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.~~

~~(3) If the approved company elects to utilize the assessment, neither the appropriation agreement, if it is so used, nor the agreement shall be executed unless the assessment is approved by a majority of the employees voting. If the approved company elects not to utilize the assessment, no employee vote shall be required for the execution of the agreement.~~

~~(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company.~~

~~(5) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed~~].

(3)[~~(6)~~] Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 13. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, *five percent (5%)*[~~six percent (6%)~~] of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project*, unless:*

(a) *The*[~~. However, if the~~] appropriation agreement is consummated, *in which case* the assessment shall be *four percent (4%)*[~~five percent (5%)~~] of each employee's gross wages subject to the income tax imposed by KRS 141.020*;*

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee that the local government or governments have agreed to forgo; or

(c) The local government or governments in which the project is located have no occupational license fee, in which case the assessment shall be four percent (4%).

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 *in the form of a simultaneous adjustment* equal to *four-fifths (4/5)*[~~two thirds (2/3)~~] of the assessment*, unless:*

(a) *The*[~~; or if the~~] appropriation agreement is consummated, *in which case* the credit shall be equal to *one hundred percent (100%)*[~~four fifths (4/5)~~] of the assessment*;*

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the credit shall be equal to the total assessment less the local occupational license fee; or

(c) If the local government or governments in which the project is located have no local occupational license fee, in which case the credit shall be equal to one hundred percent (100%) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to *one-fifth (1/5)*[~~one sixth (1/6)~~] of the assessment, unless*:*

(a) The appropriation agreement is consummated*; or*

(b) The local occupational license fee is less than one percent (1%), in which case the credit shall equal the same amount as the local occupational license fee.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 14. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)(b)2.

(2) An approved company ***that entered into a revitalization agreement prior to the effective date of this Act*** shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(5) ***For an approved company that enters into a revitalization agreement after the effective date of this Act, the tax credit shall be negotiated pursuant to Section 12 of this Act, but shall not exceed one hundred percent (100%) of the computed license tax attributable to the location of the economic revitalization project. In no case shall the tax credit exceed the limits set forth in Section 12 of this Act.***

(6) The license tax attributable to a revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(7) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

SECTION 15. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If, prior to the effective date of this Act, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:

(a) Operate under the existing agreement as preliminarily approved; or

(b) Request the authority to amend the agreement to comply with the amendments in Sections 12, 13, 14, and 21 of this Act.

(2) If, prior to the effective date of this Act, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:

(a) Operate under the existing final agreement; or

(b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment in Section 13 of this Act.

Section 16. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the[~~ most current~~] wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 17. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) ***The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the project may be terminated at the discretion of the authority.***

(6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7)[~~(6)~~] The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(8)[~~(7)~~] Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(9)[~~(8)~~] If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10)[~~(9)~~] The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11)[~~(10)~~] The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company*, pursuant to subsection (5) of this section*;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12)[~~(11)~~] All remedies provided in subsection *(11)*[~~(10)~~] of this section shall be deemed to be cumulative.

(13)[~~(12)~~] By October 1 of each year, the Revenue Cabinet shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under

this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits or assessments equal to its total inducements.

Section 18. KRS 154.47-110 is amended to read as follows:

(1) To encourage the continued development of Kentucky's primary and secondary wood products industries, the Kentucky Forest Products Council is established[~~ and attached to the Cabinet for Economic Development for administrative purposes~~].

(2) The council shall work with members of the primary and secondary wood products industries and owners of forest resources to foster cooperation in the planning and implementation of forest resources technical assistance and education efforts, including, but not limited to, silvicultural best management practices, a forest stewardship program, a master logger program, guidelines for water quality management, forest fire prevention and other technical assistance and education efforts focused on sustaining the development and productivity of the Commonwealth's forest resources.

(3) The council shall be comprised of the following members:

(a)[~~The secretary of the Cabinet for Economic Development or his designee, who shall serve ex officio;~~

~~(b)~~] The secretary of the Natural Resources and Environmental Protection Cabinet or his designee, who shall serve ex officio;

(b)[~~(c)~~]The director of the Division of Forestry or his designee;

(c)[~~(d)~~]The chairman of the University of Kentucky Department of Forestry or his designee;

(d)[~~(e)~~]The chairman of the Kentucky Soil and Water Conservation Commission or his designee;

(e)[~~(f)~~] A representative of the Kentucky Forest Industries Association appointed by the Governor;

(f)[~~(g)~~] A representative of the primary wood products industry appointed by the Governor;

(g)[~~(h)~~] A representative of the secondary wood products industry appointed by the Governor;

(h)[~~(i)~~] A representative of the Kentucky Farm Bureau Federation appointed by the Governor;

(i)[~~(j)~~] A certified tree farmer or forest steward appointed by the Governor;

(j)[~~(k)~~] A representative of the Kentucky paper products industry appointed by the Governor; and

(k) Two representatives of public interest groups[~~(l) A representative of a public interest group which is~~] active in natural resource conservation or environmental protection issues appointed by the Governor from three (3) nominees, one (1) from the Cumberland Chapter of the Sierra Club, one (1) from the Kentucky Resources Council; and one (1) from Kentuckians for the Commonwealth.

(4) The initial term of office of members appointed by the Governor shall be staggered so that the three (3) members shall serve for two (2) years each, two (2) members shall serve for three (3) years each, and two (2) members shall serve a four (4) year term. Subsequent appointments shall be for a term of four (4) years each. Vacancies shall be filled in the same manner as for the original appointment. Members appointed by the Governor may be reappointed by the Governor for succeeding terms.

(5) The council chairperson shall be appointed from the membership by the Governor for a term of two (2) years and may be reappointed by the Governor for succeeding terms.

(6) The[~~ Cabinet for Economic Development and the~~] Natural Resources and Environmental Protection Cabinet shall provide staff services to the council.

Section 19. KRS 198A.035 is amended to read as follows:

(1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:

(a) The following *ten (10)*[~~eleven (11)~~] state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Department for Local Government; commissioner of the Department of Housing, Buildings and Construction;[~~ secretary of the Cabinet for Economic Development;~~] secretary of the Cabinet for Families and Children; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Cabinet for Health Services; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.

(b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:

1. Public housing authorities;
2. Mortgage banking industry;
3. Manufactured housing industry;
4. Realtors;

5. Homebuilders;
6. Urban nonprofit housing organizations;
7. Rural nonprofit housing organizations;
8. Urban advocates for the homeless;
9. Rural advocates for the homeless;
10. Residents of economically-diverse urban neighborhoods;
11. Residents of economically-diverse rural neighborhoods;
12. Rental property providers;
13. Advocates for persons with physical disabilities;
14. Advocates for persons with mental disabilities;
15. The Kentucky State Building Trades Council;
16. The Kentucky League of Cities; and
17. The Kentucky Association of Counties.

(c) One (1) member of the Senate and one (1) member of the House of Representatives.

(2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed as provided by subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.

(3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.

(4) Any vacancy shall be filled as provided by the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.

(5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.

(6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.

(7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.

(8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.

(9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.

(10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 20. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, [~~the secretary of the Cabinet for Economic Development,~~] the secretary of the Revenue Cabinet, and ***five (5)***[~~four (4)~~] members who shall be appointed by the Governor.

(2) The ***five (5)***[~~four (4)~~] appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth***; and***

(e) One (1) at-large member to be appointed at the discretion of the Governor.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 21. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to

the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) ***Any***[~~Effective January 1, 1992, any~~] employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be ***four-fifths (4/5)***[~~two-thirds (2/3)~~] of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)***(f)***(d)2.[~~b.~~] is consummated, the offset shall be ***one hundred percent (100%)***[~~four-fifths (4/5)~~] of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 22. KRS 154.26-010 is amended to read as follows:

As used in ***this subchapter***[~~KRS 154.26-015 to 154.26-100~~], unless the context clearly indicates otherwise:

(1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)***(f)***[~~(d)~~]2.[~~b.~~], among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;

(7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity:

(a) Employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080; or

(b) Having a base contract for annual delivery of at least four (4) million tons of coal mined within the Commonwealth and employing a minimum of five hundred (500) persons engaged in coal mining and processing operations at facilities, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities on or adjacent to where coal mining and processing operations have been temporarily suspended or severely reduced, and which meets the standards promulgated by the authority under KRS 154.26-080;

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(12) "Inducements" means the Kentucky tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;

(13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(14) "Coal mining and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;

(15) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and

(16) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

The Committee Substitute to **HB 593** is as follows:

HB 593, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147.075 is amended to read as follows:

As used in KRS 147.070 to 147.120 the term "Governor's Cabinet" shall mean the "Governor's Executive Cabinet" and such other persons as the Governor may designate to compose the membership of the "State Planning Committee. "The Governor shall serve as chairman of the State Planning Committee, ***and shall appoint a vice chairman from committee membership at his or her discretion.*** The~~[secretary of the Cabinet for Economic Development shall serve as vice chairman, and the]~~ special assistant to the Governor for budget and management shall serve as secretary.

Section 2. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above;

(6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;

(7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(8) "Average hourly wage" means the~~[most current]~~ wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(9) "Commonwealth" means the Commonwealth of Kentucky;

(10) (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and

4. The new construction of an electric generation facility;

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;

(11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under

this subchapter;

(15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(16) "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;

(17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;

(18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;

(20) "Revenues" shall not be considered state funds;

(21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

(22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project.

Section 3. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) ***The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.***

(7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(8)[~~(7)~~] The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(9)[~~(8)~~] The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of

the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(10)[~~(9)~~] The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(11)[~~(10)~~] The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(12)[~~(11)~~] The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13)[~~(12)~~] All remedies provided in subsection *(12)*[~~(11)~~] of this section shall be deemed to be cumulative.

Section 4. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Average hourly wage" means the[~~ most current~~] wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means:

(a) A ***new or expanded service or technology activity conducted at a new or expanded site by:***

1. An approved company; or

2. An approved company and its affiliate or affiliates[~~service or technology activity conducted by an approved company~~]; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(9) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(10) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;

(11) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(12) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;

(13) "Local government" means a city, county, or urban-county government;

(14) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(15) ***"Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;***

(16) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;

(17)[~~(16)~~] "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(18)[~~(17)~~] "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(19)[~~(18)~~] "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

[~~(19) "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;~~]

(20) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy***, including***~~[that includes]~~ but~~[is]~~ not limited to property taxes, heating and air conditioning, electricity, ***water,*** sewer, and insurance;

(21) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(22) ***(a)*** "Service or technology" means ***either:***

1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state~~[any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication]~~;

(23) "Start-up costs" ***means***~~[mean]~~ the ***acquisition*** cost ***associated with the project and related to***~~[of]~~ furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and ***the relocation of out-of-state equipment,***~~[relocation costs]~~ as verified and approved by the authority in accordance with KRS 154.23-040;

(24) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an approved company with respect to an economic development project; and

(25) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership

is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

Section 5. KRS 154.23-015 is amended to read as follows:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the Cabinet for Workforce Development:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) ***If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the***

authority~~[Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county]~~.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

Section 6. KRS 154.23-025 is amended to read as follows:

(1) Relevant standards for approval of eligible companies and economic development projects shall include but are not limited to creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.

(2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:

(a) A minimum investment of one hundred thousand dollars ($100,000) in the project;

(b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees ***by the activation date as set forth in Section 7 or Section 8 of this Act***;

(c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and

(d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.

(3) (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project is one:

1. a. That rehabilitates a manufacturing or service or technology facility that has not been in operation; or

b. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or

c. To which the title is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;

2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.

(b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or

2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

Section 7. KRS 154.23-035 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into a tax incentive agreement with any approved company engaged in manufacturing activities with respect to its economic development project. The terms and provisions of each tax incentive agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(5) The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The approved company shall comply with the hourly wage criteria set forth in KRS 154.23-025(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.401, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company each year.

(8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended ***for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority***[~~until at least ten (10) full-time qualified employees are employed by the approved company at the project site~~].

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company***, pursuant to subsection (11) of this section***;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

(14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

Section 8. KRS 154.23-040 is amended to read as follows:

(1) Before any approved company engaged in service or technology activity is granted inducements under KRS 154.23-005 to

154.23-079, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall ***commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date***[~~not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year time period after the date of final approval of the service and technology agreement by the authority~~].

(b) The service and technology agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the service and technology agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of Section 6 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the service and technology agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of Section 6 of this Act within two (2) years from the date of final approval of the service and technology agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(c) In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(d)[~~(b)~~] The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and
2. The assessment, if applicable, withheld by the approved company in each year;

(e)[~~(c)~~] The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(f)[~~(d)~~] If the total number of ***full-time*** qualified employees at the site of the economic development project is less than ten (10), ***or in the case of an existing business the approved company fails to maintain the increase of at least ten (10) full-time qualified employees,*** the authorized inducements shall be suspended ***for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority***[~~until at least ten (10) full-time qualified employees are employed by the approved company at the project site~~];

(g)[~~(e)~~] The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(h)[~~(f)~~] The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(3) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(4) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(5) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the

assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

Section 9. KRS 154.23-055 is amended to read as follows:

(1) If the local jurisdiction in which the economic development project is to be located, approves the assessment in accordance with subsection (8) of this section, then an approved company engaged in either manufacturing or service or technology activities***, or, with the authority's consent, an affiliate of the approved company,*** may require each qualified statewide employee, as a condition to employment, to agree to pay an assessment in an amount determined by the percentage of the local occupational license fee, which shall be one-fifth (1/5) of the total assessment, plus the Commonwealth's contribution of four-fifths (4/5) of the total assessment, but in no event to exceed five percent (5%) of the qualified statewide employee's gross wages exclusive of any noncash benefits; provided that each qualified statewide employee paying the assessment shall be entitled to credits against Kentucky income tax as prescribed in subsection (4) of this section and to credits against the local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction. This assessment shall be deducted by the approved company from wages it pays to qualified statewide employees.

(2) Notwithstanding subsection (1) of this section, if no local occupational license fee is assessed by any local government in which the project is located, the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth.

(3) Notwithstanding subsection (1) of this section, if a project is located in only one (1) local government and that local government has a local occupational license fee that is less than one percent (1%) and the local government agrees to forgo all of its local occupational license fee or if a project is located in multiple local governments and the local governments have in the aggregate local occupational license fees that are less than one percent (1%) and the local governments agree to forgo all of their local occupational license fees, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee or fees, as applicable, that the local government or local governments, as applicable, has or have agreed to forgo.

(4) Each qualified statewide employee required to pay this assessment shall be entitled to certain credits, as follows:

  (a) Credit against the required Kentucky income tax withheld from gross wages under KRS 141.310 equal to the Commonwealth's contribution, but in no event to exceed four percent (4%) of these wages; and

  (b) Credit against the local occupational license fee imposed by any local government in which the project is located in the form of a simultaneous adjustment of the local occupational license fee withheld from gross wages excluding noncash benefits not to exceed one percent (1%) of these wages.

(5) If more than one (1) local government jurisdiction imposes a local occupational license fee and all jurisdictions approve the assessment, then the assessment and employee credit therefor shall be prorated against the local occupational license fees imposed, unless a single local government jurisdiction agrees to forgo receipt of its local occupational license fees in an amount equal to one percent (1%) of the qualified statewide employees' wages excluding noncash benefits, in which case no proration need be made.

(6) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.

(7) An approved company that collects an assessment shall make its payroll, books, and records available to the authority at its request, and shall provide all documentation pertaining to the assessment as the authority may require.

(8) Before any tax incentive agreement or service and technology agreement becomes effective with respect to an assessment, the legislative body of any local government that assesses a local occupational license fee and shall lose revenue as a result of the assessment described in this section shall, by official action, approve the assessment for the benefit of an approved company. However, if a local government does not approve the assessment, then the approved company shall not be permitted to impose the assessment and the qualified statewide employees shall not be permitted to claim credits.

(9) Any assessment of the wages of qualified statewide employees of an approved company engaged in service or technology activities in connection with their employment at an economic development project shall permanently cease at the expiration of the service and technology agreement.

Section 10. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" means the following:

  (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the

Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(7) "Average hourly wage" means the~~[most current]~~ wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic development project" or "project" means ***a new or expanded service or technology activity conducted at a new or expanded site by:***

(a) An approved company; or

(b) An approved company and its affiliate or affiliates~~[a service or technology activity conducted by an approved company]~~;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(15) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(16) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) ~~["Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;~~

~~(19)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(19) (a)~~[(20)]~~ "Service or technology" means ***either:***

1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state[~~any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity~~]; and

(20)[~~(21)~~] "Start-up costs" means the acquisition cost ***associated with the project related to the***[~~of~~] furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, ***the relocation of out-of-state equipment***[~~relocation costs~~], and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

Section 11. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within two (2) years after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least fifteen (15) full-time employees who are residents of the Commonwealth and subject to the Kentucky income tax, the authorized inducements shall be suspended ***for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority***[~~until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax equals or exceeds fifteen (15); or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied~~];

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended ***for a period of up to one (1) year. If the percentage of these services does not exceed seventy-five percent (75%) within one (1) year from the initial date of suspension, the inducements may be terminated at the discretion of the authority***[~~until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company~~]; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 12. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, ***the amount of the license tax credit pursuant to Section 14 of this Act, and any limitations the authority may deem necessary,*** shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) ***The amount the approved company may recover through inducements under this subchapter shall not exceed seventy-five percent (75%) of approved costs.***

(b) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant.[~~;~~]

(c)[~~(b)~~]In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;
2. A credit against the Kentucky license tax imposed by KRS 136.070[~~ on the capital of the approved company generated by or arising out of the economic revitalization project~~] as determined under KRS 136.0704; plus
3. The aggregate assessment withheld by the approved company in each year;

(d)[~~(c)~~]The tax ***credits***[~~credit~~] allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or ***the amount that the company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved cost~~] that has not yet been recovered,[~~ which fifty percent (50%) shall be~~] reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the ***amount that the company may recover under paragraph (a) of this subsection***[~~entire fifty percent (50%) of the approved cost~~] has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section;

(e)[~~(d)~~]The agreement shall provide that ***the***[~~:~~

~~1. The~~] term shall not be longer than the earlier of:

1.[~~a.~~] The date on which the approved company has received inducements or ***withheld***[~~withholds~~] assessments equal to ***the amount that the company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved costs of its economic revitalization project~~]; or

2.[~~b.~~] Ten (10) years from the date of the execution of the agreement.

(f)[~~2.~~] Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1.[~~a.~~] A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

2.[~~b.~~] In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

(g) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(h)[~~3.~~] If in any fiscal year of the approved company during which the agreement is in effect the total of the ***tax credits***[~~income tax credit~~] granted to the approved company plus the assessment collected from the wages of the employees exceeds ***the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved costs then expended~~], the approved company shall pay the excess to the Commonwealth as income tax.

(i)[~~4.~~] If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from

the wages of the employees exceeds *the expended portion of the amount that the approved company may recover under paragraph (a) of this section*[~~fifty percent (50%) of the approved costs then expended~~], the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(i)[~~(e)~~] All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, *it shall not assess the wages of an employee who is party to an individual employment contract with the approved company*[~~a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.~~

~~(3) If the approved company elects to utilize the assessment, neither the appropriation agreement, if it is so used, nor the agreement shall be executed unless the assessment is approved by a majority of the employees voting. If the approved company elects not to utilize the assessment, no employee vote shall be required for the execution of the agreement.~~

~~(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company.~~

~~(5) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed~~].

(3)[~~(6)~~] Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 13. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, *five percent (5%)*[~~six percent (6%)~~] of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project*, unless:*

(a) The[~~. However, if the~~] appropriation agreement is consummated, *in which case* the assessment shall be *four percent (4%)*[~~five percent (5%)~~] of each employee's gross wages subject to the income tax imposed by KRS 141.020*;*

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee that the local government or governments have agreed to forgo; or

(c) The local government or governments in which the project is located have no occupational license fee, in which case the assessment shall be four percent (4%).

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 *in the form of a simultaneous adjustment* equal to *four-fifths (4/5)*[~~two-thirds (2/3)~~] of the assessment*, unless:*

(a) The[~~; or if the~~] appropriation agreement is consummated, *in which case* the credit shall be equal to *one hundred percent (100%)*[~~four-fifths (4/5)~~] of the assessment*;*

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the credit shall be equal to the total assessment less the local occupational license fee; or

(c) If the local government or governments in which the project is located have no local occupational license fee, in which case the credit shall be equal to one hundred percent (100%) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to *one-fifth (1/5)*[~~one-sixth (1/6)~~] of the assessment, unless*:*

(a) The appropriation agreement is consummated*; or*

(b) The local occupational license fee is less than one percent (1%), in which case the credit shall equal the same

amount as the local occupational license fee.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 14. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)***(c)***[~~(b)~~]2.

(2) An approved company ***that entered into a revitalization agreement prior to the effective date of this Act*** shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(5) ***For an approved company that enters into a revitalization agreement after the effective date of this Act, the tax credit shall be negotiated pursuant to Section 12 of this Act, but shall not exceed one hundred percent (100%) of the computed license tax attributable to the location of the economic revitalization project. In no case shall the tax credit exceed the limits set forth in Section 12 of this Act.***

(6) The license tax attributable to a revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(7) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

SECTION 15. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If, prior to the effective date of this Act, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:

(a) Operate under the existing agreement as preliminarily approved; or

(b) Request the authority to amend the agreement to comply with the amendments in Sections 12, 13, 14, and 21 of this Act.

(2) If, prior to the effective date of this Act, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:

(a) Operate under the existing final agreement; or

(b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment in Section 13 of this Act.

Section 16. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;

(2) "Affiliate" means the following:

- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
- (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
  - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
    - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or
  - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
- (l) A corporation and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
  - 2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;
- (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
- (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

(3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;

(4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing

of value-added functions with regard to raw agricultural products;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9) "Average hourly wage" means the~~[most current]~~ wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:

(a) Manufacturing;

(b) Transportation, communications, and public utilities;

(c) Wholesale and retail trade;

(d) Finance, insurance, and real estate; and

(e) Services;

(10) "Commonwealth" means the Commonwealth of Kentucky;

(11) (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;

2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate; or

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;

(13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

(14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;

(15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;

(16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 17. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) *The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.*

(6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7)[~~(6)~~] The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(8)[~~(7)~~] Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(9)[~~(8)~~] If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not

be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10)[~~(9)~~] The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11)[~~(10)~~] The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company*, pursuant to subsection (5) of this section*;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12)[~~(11)~~] All remedies provided in subsection *(11)*[~~(10)~~] of this section shall be deemed to be cumulative.

(13)[~~(12)~~] By October 1 of each year, the Revenue Cabinet shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits or assessments equal to its total inducements.

Section 18. KRS 154.47-110 is amended to read as follows:

(1) To encourage the continued development of Kentucky's primary and secondary wood products industries, the Kentucky Forest Products Council is established[~~ and attached to the Cabinet for Economic Development for administrative purposes~~].

(2) The council shall work with members of the primary and secondary wood products industries and owners of forest resources to foster cooperation in the planning and implementation of forest resources technical assistance and education efforts, including, but not limited to, silvicultural best management practices, a forest stewardship program, a master logger program, guidelines for water quality management, forest fire prevention and other technical assistance and education efforts focused on sustaining the development and productivity of the Commonwealth's forest resources.

(3) The council shall be comprised of the following members:

(a)[~~ The secretary of the Cabinet for Economic Development or his designee, who shall serve ex officio;~~

~~(b)~~] The secretary of the Natural Resources and Environmental Protection Cabinet or his designee, who shall serve ex officio;

(b)[~~(c)~~]The director of the Division of Forestry or his designee;

(c)[~~(d)~~]The chairman of the University of Kentucky Department of Forestry or his designee;

(d)[~~(e)~~]The chairman of the Kentucky Soil and Water Conservation Commission or his designee;

(e)[~~(f)~~] A representative of the Kentucky Forest Industries Association appointed by the Governor;

(f)[~~(g)~~] A representative of the primary wood products industry appointed by the Governor;

(g)[~~(h)~~] A representative of the secondary wood products industry appointed by the Governor;

(h)[~~(i)~~] A representative of the Kentucky Farm Bureau Federation appointed by the Governor;

(i)[~~(j)~~] A certified tree farmer or forest steward appointed by the Governor;

(j)[~~(k)~~] A representative of the Kentucky paper products industry appointed by the Governor; and

(k) Two representatives of public interest groups[~~(l) A representative of a public interest group which is~~] active in natural resource conservation or environmental protection issues appointed by the Governor from three (3) nominees, one (1) from the Cumberland Chapter of the Sierra Club, one (1) from the Kentucky Resources Council; and one (1) from Kentuckians for the Commonwealth.

(4) The initial term of office of members appointed by the Governor shall be staggered so that the three (3) members shall serve for two (2) years each, two (2) members shall serve for three (3) years each, and two (2) members shall serve a four (4) year term. Subsequent appointments shall be for a term of four (4) years each. Vacancies shall be filled in the same manner as for the original appointment. Members appointed by the Governor may be reappointed by the Governor for succeeding terms.

(5) The council chairperson shall be appointed from the membership by the Governor for a term of two (2) years and may be reappointed by the Governor for succeeding terms.

(6) The[~~ Cabinet for Economic Development and the~~] Natural Resources and Environmental Protection Cabinet shall provide staff services to the council.

Section 19. KRS 198A.035 is amended to read as follows:

(1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy.

The corporation shall create an advisory committee on housing policy consisting of the following:

(a) The following ***ten (10)***[~~eleven (11)~~] state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Department for Local Government; commissioner of the Department of Housing, Buildings and Construction;[~~ secretary of the Cabinet for Economic Development;~~] secretary of the Cabinet for Families and Children; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Cabinet for Health Services; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.

(b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:

1. Public housing authorities;
2. Mortgage banking industry;
3. Manufactured housing industry;
4. Realtors;
5. Homebuilders;
6. Urban nonprofit housing organizations;
7. Rural nonprofit housing organizations;
8. Urban advocates for the homeless;
9. Rural advocates for the homeless;
10. Residents of economically-diverse urban neighborhoods;
11. Residents of economically-diverse rural neighborhoods;
12. Rental property providers;
13. Advocates for persons with physical disabilities;
14. Advocates for persons with mental disabilities;
15. The Kentucky State Building Trades Council;
16. The Kentucky League of Cities; and
17. The Kentucky Association of Counties.

(c) One (1) member of the Senate and one (1) member of the House of Representatives.

(2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed as provided by subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.

(3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.

(4) Any vacancy shall be filled as provided by the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.

(5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.

(6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.

(7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.

(8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.

(9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.

(10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 20. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development ***or a designee***, the secretary of the Revenue Cabinet, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 21. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) ***Any***~~[Effective January 1, 1992, any]~~ employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be ***four-fifths (4/5)***~~[two-thirds (2/3)]~~ of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)***(f)***~~[(d)]~~2.~~[b.]~~ is consummated, the offset shall be ***one hundred percent (100%)***~~[four-fifths (4/5)]~~ of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 22. KRS 154.26-010 is amended to read as follows:

As used in ***this subchapter***~~[KRS 154.26-015 to 154.26-100]~~, unless the context clearly indicates otherwise:

(1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)***(f)***~~[(d)]~~2.~~[b.]~~, among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;

(7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity:

(a) Employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080; or

(b) Having a base contract for annual delivery of at least four (4) million tons of coal mined within the Commonwealth and employing a minimum of five hundred (500) persons engaged in coal mining and processing operations at facilities, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities on or adjacent to where coal mining and processing operations have been temporarily suspended or severely reduced, and which meets the standards promulgated by the authority under KRS 154.26-080;

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(12) "Inducements" means the Kentucky tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;

(13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(14) "Coal mining and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;

(15) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and

(16) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

SB 248, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, ***the amount of the license tax credit pursuant to Section 4 of this Act, and any limitations the authority may deem necessary,*** shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) ***The amount the approved company may recover through inducements under this subchapter shall not exceed seventy-five percent (75%) of approved costs.***

(b) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant***.***[~~;~~]

(c)[~~(b)~~]In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;

2. A credit against the Kentucky license tax imposed by KRS 136.070[~~ on the capital of the approved company generated by or arising out of the economic revitalization project~~] as determined under KRS 136.0704; plus

3. The aggregate assessment withheld by the approved company in each year;

(d)[~~(c)~~]The tax ***credits***[~~credit~~] allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or ***the amount that the company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved cost~~] that has not yet been recovered,[~~ which fifty percent (50%) shall be~~] reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the ***amount that the company may recover under paragraph (a) of this subsection***[~~entire fifty percent (50%) of the approved cost~~] has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section;

(e)[~~(d)~~]The agreement shall provide that ***the***[~~:~~
~~1. The~~] term shall not be longer than the earlier of:

1.[~~a.~~] The date on which the approved company has received inducements or ***withheld***[~~withholds~~] assessments equal to ***the amount that the company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved costs of its economic revitalization project~~]; or

2.[~~b.~~] Ten (10) years from the date of the execution of the agreement.

(f)[~~2.~~] Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1.[~~a.~~] A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

2.[~~b.~~] In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

(g) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(h)[~~3.~~] If in any fiscal year of the approved company during which the agreement is in effect the total of the ***tax credits***[~~income tax credit~~] granted to the approved company plus the assessment collected from the wages of the employees exceeds ***the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection***[~~fifty percent (50%) of the approved costs then expended~~], the approved company shall pay the excess to the Commonwealth as income tax.

(i)[~~4.~~] If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds ***the expended portion of the amount that the approved company may recover under paragraph (a) of this section***[~~fifty percent (50%) of the approved costs then expended~~], the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(j)[~~(e)~~] All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, ***it shall not assess the wages of an employee who is party to an individual employment contract with the approved company***[~~a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.~~

~~(3) If the approved company elects to utilize the assessment, neither the appropriation agreement, if it is so used, nor the agreement shall be executed unless the assessment is approved by a majority of the employees voting. If the approved company elects not to utilize the assessment, no employee vote shall be required for the execution of the agreement.~~

~~(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company.~~

~~(5) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed~~].

(3)[~~(6)~~] Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 2. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, ***five***[~~six~~] percent ***(5%)***[~~(6%)~~] of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project***, unless:***

(a) ***The***[~~. However, if the~~] appropriation agreement is consummated, ***in which case*** the assessment shall be ***four***[~~five~~] percent ***(4%)***[~~(5%)~~] of each employee's gross wages subject to the income tax imposed by KRS 141.020;

(b) ***The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee that the local government or governments have agreed to forgo; or***

(c) ***The local government or governments in which the project is located have no occupational license fee, in which case the assessment shall be four percent (4%)***.

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 ***in the form of a simultaneous adjustment*** equal to ***four-fifths (4/5)***[~~two-thirds (2/3)~~] of the assessment***, unless:***

(a) ***The***[~~; or if the~~] appropriation agreement is consummated, ***in which case*** the credit shall be equal to ***one hundred percent (100%)***[~~four-fifths (4/5)~~] of the assessment***;***

(b) ***The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the credit shall be equal to the total assessment less the local occupational license fee; or***

(c) If the local government or governments in which the project is located have no local occupational license fee, in which case the credit shall be equal to one hundred percent (100%) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to ***one-fifth (1/5)***[~~one sixth (1/6)~~] of the assessment, unless***:***

(a) The appropriation agreement is consummated***; or***

(b) The local occupational license fee is less than one percent (1%), in which case the credit shall equal the same amount as the local occupational license fee.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

SECTION 3. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If, prior to the effective date of this Act, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:

(a) Operate under the existing agreement as preliminarily approved; or

(b) Request the authority to amend the agreement to comply with the amendments in Sections 1, 2, 4, and 5 of this Act.

(2) If, prior to the effective date of this Act, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:

(a) Operate under the existing final agreement; or

(b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment in Section 2 of this Act.

Section 4. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)***(c)***[~~(b)~~]2.

(2) An approved company ***that entered into a revitalization agreement prior to the effective date of this Act*** shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(5) ***For an approved company that enters into a revitalization agreement after the effective date of this Act, the tax credit shall be negotiated pursuant to Section 1 of this Act, but shall not exceed one hundred percent (100%) of the computed license tax attributable to the location of the economic revitalization project. In no case shall the tax credit exceed the limits set forth in Section 1 of this Act.***

(6) The license tax attributable to a revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(7) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue

Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 5. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) ***Any***[~~Effective January 1, 1992, any~~] employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be ***four-fifths (4/5)***[~~two thirds (2/3)~~] of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)***(f)***[~~(d)~~]2.[~~b.~~] is consummated, the offset shall be ***one hundred percent (100%)***[~~four-fifths (4/5)~~] of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or

enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 6. KRS 154.26-010 is amended to read as follows:

As used in ***this subchapter***[~~KRS 154.26-015 to 154.26-100~~], unless the context clearly indicates otherwise:

(1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)***(f)***[~~(d)~~]2.[~~b.~~], among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

(5) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;

(7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity:

(a) Employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080; or

(b) Having a base contract for annual delivery of at least four (4) million tons of coal mined within the Commonwealth and employing a minimum of five hundred (500) persons engaged in coal mining and processing operations at facilities, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities on or adjacent to where coal mining and processing operations have been temporarily suspended or severely reduced, and which meets the standards promulgated by the authority under KRS 154.26-080;

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under

this subchapter;

(12) "Inducements" means the Kentucky tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;

(13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(14) "Coal mining and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;

(15) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and

(16) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Relations reported **HB 670,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 670, AN ACT relating to contributions to candidates' campaigns and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (7) of this section, a candidate or slate of candidates for nomination to any state, county, city, or district office, their campaign committees, or anyone on their behalf, shall only solicit or accept contributions for primary election expenses for sixty (60) days after the date of the primary to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the primary election, and no contribution shall exceed the applicable contribution limits for that election as provided by KRS 121.150 or 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180

(2) Subject to the provisions of subsection (7) of this section, a slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, its campaign committees, or anyone on their behalf, shall only solicit or accept contributions for runoff primary election expenses for sixty (60) days after the date of the runoff primary to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the runoff primary election, and no contribution shall exceed the applicable contribution limits for that election provided by KRS 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180

(3) Subject to the provisions of subsection (7) of this section, a candidate or slate of candidates for any state, county, city, or district office at a regular election, their campaign committees, or anyone on their behalf, shall only solicit or accept contributions for regular election expenses for sixty (60) days after the date of the regular election to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the regular election, and no contribution shall exceed the applicable contribution limits for that election provided by KRS 121.150 or 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180

(4) Subject to the provisions of subsection (7) of this section, a candidate or slate of candidates for any state, county, city, or district office at a special election, their campaign committees, or anyone on their behalf, shall only solicit or accept contributions for special election expenses for sixty (60) days after the date of the special election to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the special election, and no contribution shall exceed the applicable contribution limits for that election provided by KRS 121.150 or 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180

(5) Subsections (1), (2), (3), and (4) of this section shall not be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election, but a contribution received under (1), (2), (3), or (4) of this section after the date of any election shall not be deemed to be a qualifying contribution, and no matching funds shall be issued for any contributions made or received after any election.

(6) The provisions of this section shall apply only to those candidates or slates of candidates in a primary, runoff primary, special, or regular election which shall be conducted subsequent to the effective date of this Act.

(7) Subject to subsections (1), (2), (3), or (4) of this section, a candidate, slate of candidates, or a campaign committee may also solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(8) For purposes of this section, "net debts outstanding" means:

- ***(a) An amount necessary to cover the cost of raising funds as permitted under this section;***
- ***(b) Any necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies; and***
- ***(c) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to a particular election, that are existing or obligated prior to that election, less the sum of:***
  - ***1. The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value; and***
  - ***2. The total amounts owed to the candidate's committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectibility of those credits, refunds, returns, or receivables.***

Section 2. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, ***Section 1 of this Act,*** or KRS Chapter 121A, shall, for each offense, be guilty of a Class D felony. Violations of KRS 121.150 to 121.230***, Section 1 of this Act,*** or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

- (a) Failure to make required reports or to file reports at times specified;
- (b) Making any false statement or report;
- (c) Giving money under a fictitious name; or
- (d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220***, Section 1 of this Act,*** or KRS Chapter 121A, or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220***, Section 1 of this Act,*** or KRS Chapter 121A, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230***, Section 1 of this Act,*** and KRS Chapter 121A.

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter or KRS Chapter 121A. In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class

D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 3. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13)[~~No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.~~

~~(14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.~~

~~(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices~~

~~of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.~~

~~(16) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.~~

~~(17) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.~~

~~(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.~~

~~(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.~~

~~(20) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.~~

~~(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).~~

~~(22)~~] No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(14)[~~(23)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(15)[~~(24)~~] In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(16)[~~(25)~~] No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(17)[~~(26)~~] (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(18)[~~(27)~~] No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind

contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (7) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(2) Subject to the provisions of subsection (7) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(3) Subject to the provisions of subsection (7) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(4) Subject to the provisions of subsection (7) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(5) Nothing in subsections (1) to (4) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(6) The provisions of this section shall apply only to those candidates or slates of candidates in a primary, runoff primary, special, or regular election which shall be conducted subsequent to the effective date of this Act.

(7) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(8) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(9) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(10) A violation of any provision of this section shall be subject to the penalties of subsections (3), (4), (5), and (6) of Section 2 of this Act, and the provisions of KRS 121.140.

Section 5. Section 1 of this Act shall be repealed effective June 30, 2005.

Section 6. This Act shall not have retroactive effect to elections held prior to the date of its passage.

Section 7. It is the intention of the General Assembly to have limitations on post-election contributions in place during the pendency of any further appeal in the case described in Section 6 of this Act. The General Assembly believes that the limitations on candidate loans and post-election contributions are reasonable, appropriate, and constitutional.

Section 8. Section 4 of this Act shall be effective July 1, 2005.

Section 9. Whereas a three-judge panel of the United States Court of Appeals for the Sixth Circuit, in the case of Anderson v. Spear, No. 02-5529 (January 16, 2004), has found limitations on post-election contributions and personal candidate loans unconstitutional, and an immediate change to the law is necessary to conduct free and equal elections as required by Section 6 of the Kentucky Constitution, ensure the prevention of electoral fraud and corrupt practices as required by Sections 150 and 151 of the Kentucky Constitution, and prevent campaign finance abuses throughout the Commonwealth for upcoming special, primary, and general elections, an emergency is declared to exist, and Sections 1, 2, 3, and 6 of this Act take effect upon their passage and approval by the Governor or upon their otherwise becoming a law.

The Committee Substitute to **HB 670** is as follows:

HB 670, AN ACT relating to contributions to candidates' campaigns and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (7) of this section, a candidate or slate of candidates for nomination to any state, county, city, or district office, their campaign committees, or anyone on their behalf, shall only solicit or accept contributions for primary election expenses for sixty (60) days after the date of the primary to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the primary election, and no contribution shall exceed the applicable contribution limits for that election as provided by KRS 121.150 or 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180 or 121A.020(5).

(2) Subject to the provisions of subsection (7) of this section, a slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, its campaign committees, or anyone on their behalf, shall only solicit or accept contributions for runoff primary election expenses for sixty (60) days after the date of the runoff primary to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the runoff primary election, and no contribution shall exceed the applicable contribution limits for that election provided by KRS 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180 or 121A.020(5).

(3) Subject to the provisions of subsection (7) of this section, a candidate or slate of candidates for any state, county, city, or district office at a regular election, their campaign committees, or anyone on their behalf, shall only solicit or accept contributions for regular election expenses for sixty (60) days after the date of the regular election to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the regular election, and no contribution shall exceed the applicable contribution limits for that election provided by KRS 121.150 or 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180 or 121A.020(5).

(4) Subject to the provisions of subsection (7) of this section, a candidate or slate of candidates for any state, county, city, or district office at a special election, their campaign committees, or anyone on their behalf, shall only solicit or accept contributions for special election expenses for sixty (60) days after the date of the special election to the extent that the aggregate contributions shall not exceed the net debts outstanding from that election, provided that the debts were existing or obligated prior to the special election, and no contribution shall exceed the applicable contribution limits for that election provided by KRS 121.150 or 121A.050 and any other provision of KRS Chapter 121 or 121A. The amount of the net debts outstanding shall be reduced as additional funds are received. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180 or 121A.020(5).

(5) Subsections (1), (2), (3), and (4) of this section shall not be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election, but a contribution received under (1), (2), (3), or (4) of this section after the date of any election shall not be deemed to be a qualifying contribution, and no matching funds shall be issued for any contributions made or received after any election.

(6) The provisions of this section shall apply only to those candidates or slates of candidates in a primary, runoff primary, special, or regular election which shall be conducted subsequent to the effective date of this Act.

(7) Subject to subsections (1), (2), (3), or (4) of this section, a candidate, slate of candidates, or a campaign committee may also solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(8) For purposes of this section, "net debts outstanding" means:

(a) An amount necessary to cover the cost of raising funds as permitted under this section;

(b) Any necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies; and

(c) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to a particular election, that are existing or obligated prior to that election, less the sum of:

1. The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value; and

2. The total amounts owed to the candidate's committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectibility of those credits, refunds, returns, or receivables.

Section 2. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, ***Section 1 of this Act,*** or KRS Chapter 121A, shall, for each offense, be guilty of a Class D felony. Violations of KRS 121.150 to 121.230***, Section 1 of this Act,*** or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220***, Section 1 of this Act,*** or KRS Chapter 121A, or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220***, Section 1 of this Act,*** or KRS Chapter 121A, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230***, Section 1 of this Act,*** and KRS Chapter 121A.

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter or KRS Chapter 121A. In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from

the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 3. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in

excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10). No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13)[~~No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.~~

~~(14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.~~

~~(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.~~

~~(16) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.~~

~~(17) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.~~

~~(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying~~

~~contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.~~

~~(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.~~

~~(20) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.~~

~~(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).~~

~~(22)~~] No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(14)[~~(23)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(15)[~~(24)~~] In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(16)[~~(25)~~] No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(17)[~~(26)~~] (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(18)[~~(27)~~] No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (7) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(2) Subject to the provisions of subsection (7) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(3) Subject to the provisions of subsection (7) of this section, no candidate or slate of candidates for any state, county, city,

or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(4) Subject to the provisions of subsection (7) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(5) Nothing in subsections (1) to (4) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(6) The provisions of this section shall apply only to those candidates or slates of candidates in a primary, runoff primary, special, or regular election which shall be conducted subsequent to the effective date of this Act.

(7) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(8) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(9) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(10) A violation of any provision of this section shall be subject to the penalties of subsections (3), (4), (5), and (6) of Section 2 of this Act, and the provisions of KRS 121.140.

Section 5. Section 1 of this Act shall be repealed effective June 30, 2005.

Section 6. This Act shall not have retroactive effect to elections held prior to the date of its passage.

Section 7. It is the intention of the General Assembly to have limitations on post-election contributions in place during the pendency of any further appeal in the case described in Section 6 of this Act. The General Assembly believes that the limitations on candidate loans and post-election contributions are reasonable, appropriate, and constitutional.

Section 8. Section 4 of this Act shall be effective July 1, 2005.

Section 9. Whereas a three-judge panel of the United States Court of Appeals for the Sixth Circuit, in the case of Anderson v. Spear, No. 02-5529 (January 16, 2004), has found limitations on post-election contributions and personal candidate loans unconstitutional, and an immediate change to the law is necessary to conduct free and equal elections as required by Section 6 of the Kentucky Constitution, ensure the prevention of electoral fraud and corrupt practices as required by Sections 150 and 151 of the Kentucky Constitution, and prevent campaign finance abuses throughout the Commonwealth for upcoming special, primary, and general elections, an emergency is declared to exist, and Sections 1, 2, 3, and 6 of this Act take effect upon their passage and approval by the Governor or upon their otherwise becoming a law.

The Committee on Labor and Industry reported **HB 499** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on Agriculture and Small Business reported **HB 127,** with Committee Substitute attached thereto, **HJR 218, HCR 220,** with Committee Substitute attached thereto, and **SCR 93,** with Committee Amendments attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 127, AN ACT relating to the control of pest plants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) The Pest Plant Board is created within the Natural Resource and Environmental Protection Cabinet for the purpose of protecting the Commonwealth's land and waters, whether they are developed, agricultural, or natural, from the

negative impacts of noxious weeds. For the purposes of this section, a noxious weed is a nonnative invasive plant whose presence is detrimental to crops or other desirable plants, livestock, land, or other property, or is injurious to the public health. The mission of the board is to:

(a) Raise awareness and promote public understanding of the threat posed by noxious weeds;

(b) Facilitate the exchange of information concerning the management and control of noxious weeds; and

(c) Work to achieve these ends through existing state and local agencies, industries, and organizations.

(2) Board members shall include these agency representatives to serve at the pleasure of their respective cabinet secretaries:

(a) Three (3) representatives of the Natural Resources and Environmental Protection Cabinet, one (1) each from the Nature Preserves Commission, the Division of Forestry, and the Division of Conservation, appointed by the secretary of the cabinet;

(b) A representative of the Transportation Cabinet appointed by the secretary of the cabinet;

(c) A representative of the Department of Agriculture appointed by the commissioner;

(d) Two (2) representatives of the Tourism Development Cabinet, one (1) each from the Department of Parks and the Department of Fish and Wildlife Resources, appointed by the secretary of the cabinet; and

(e) The Extension Professor of Weed Science or other appointee from the University of Kentucky School of Agronomy, appointed by the dean.

(3) Additional board members shall be appointed by the Governor from slates of nominees prepared as follows:

(a) A representative from the utility industry nominated by the director of the Division of Energy;

(b) A representative nominated by the Kentucky Nursery and Landscape Association;

(c) A representative nominated by the Kentucky Exotic Pest Plant Council;

(d) A representative nominated by the Kentucky Academy of Science; and

(e) A representative nominated by the Kentucky Farm Bureau.

(4) Members appointed pursuant to subsection (3) of this section shall serve terms of two (2) years, except that the terms of the first members appointed pursuant to subsection (3)(c) and (d) shall be one (1) year. Members may be renominated and appointed to additional terms. Vacancies will be filled by the respective appointing bodies.

(5) The secretary of the Natural Resources and Environmental Protection Cabinet shall pick one of the three (3) board members from that cabinet to serve as chair.

(6) The board shall meet at the call of the chair or if a meeting is requested by four (4) members. The board may meet as needed but shall not exceed four (4) meetings in a calendar year.

(7) Board members shall not be compensated but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(8) In carrying out the provisions of this section, the board shall, by administrative regulations promulgated under the provisions of KRS Chapter 13A:

(a) Adopt definitions of "control," "contain," "eradicate," and any other terms as may be necessary;

(b) Adopt a state noxious weed list, classifying the weeds on the list and making changes or findings as it deems necessary for the inclusion of weeds on the list. This list shall supersede any similar list in statute or regulation. The list may also identify and recommend native alternatives for listed plants; and

(c) Adopt other administrative regulations reasonably necessary to implement or carry out the purposes of this section.

(9) The board shall distribute the list to:

(a) The appointing bodies listed in subsections (2) and (3) of this section, who shall disseminate the list to appropriate agencies, memberships, or subdivisions;

(b) Such media outlets as may ensure statewide distribution to interested members of the public; and

(c) Any educational institution, agency, organization, or business engaged in extension services, teaching, or research in the areas of agronomy, horticulture, or similar disciplines.

(10) The board may:

(a) Apply for and receive grants, state or federal appropriations, or any other moneys as may become available for the board's purposes; and

(b) Expend or disburse funds in furtherance of the board's purposes.

The Committee Substitute to **HB 127** is as follows:

HB 127, AN ACT relating to the control of pest plants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) The Pest Plant Board is created within the Natural Resource and Environmental Protection Cabinet for the purpose of protecting the Commonwealth's land and waters, whether they are developed, agricultural, or natural, from the negative impacts of invasive weeds. For the purposes of this section, an invasive weed is a nonnative pest plant whose presence is detrimental to crops or other desirable plants, livestock, land, or other property, or is injurious to the public health. The mission of the board is to:

(a) Raise awareness and promote public understanding of the threat posed by invasive weeds;

(b) Facilitate the exchange of information concerning the management and control of invasive weeds; and

(c) Work to achieve these ends through existing state and local agencies, industries, and organizations.

(2) Board members shall include these agency representatives to serve at the pleasure of their respective cabinet secretaries:

(a) Three (3) representatives of the Natural Resources and Environmental Protection Cabinet, one (1) each from the Nature Preserves Commission, the Division of Forestry, and the Division of Conservation, appointed by the secretary of the cabinet;

(b) A representative of the Transportation Cabinet appointed by the secretary of the cabinet;

(c) A representative of the Department of Agriculture appointed by the commissioner;

(d) Two (2) representatives of the Tourism Development Cabinet, one (1) each from the Department of Parks and the Department of Fish and Wildlife Resources, appointed by the secretary of the cabinet; and

(e) The Extension Professor of Weed Science or other appointee from the University of Kentucky School of Agronomy, appointed by the dean.

(3) Additional board members shall be appointed by the Governor from slates of nominees prepared as follows:

(a) A representative from the utility industry nominated by the director of the Division of Energy;

(b) A representative nominated by the Kentucky Nursery and Landscape Association;

(c) A representative nominated by the Kentucky Exotic Pest Plant Council;

(d) A representative nominated by the Kentucky Academy of Science; and

(e) A representative who is a full-time farmer nominated by the Kentucky Farm Bureau.

(4) Members appointed pursuant to subsection (3) of this section shall serve terms of two (2) years, except that the terms of the first members appointed pursuant to subsection (3)(c) and (d) shall be one (1) year. Members may be renominated and appointed to additional terms. Vacancies will be filled by the respective appointing bodies.

(5) The secretary of the Natural Resources and Environmental Protection Cabinet shall pick one of the three (3) board members from that cabinet to serve as chair.

(6) The board shall meet at the call of the chair or if a meeting is requested by four (4) members. The board may meet as needed but shall not exceed four (4) meetings in a calendar year.

(7) Board members shall not be compensated but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(8) In carrying out the provisions of this section, the board shall:

(a) Adopt definitions of "control," "contain," "eradicate," and any other terms as may be necessary;

(b) Adopt a state invasive weed list, classifying the weeds on the list and making changes or findings as it deems necessary for the inclusion of weeds on the list. The list may also identify and recommend native alternatives for listed plant; and

(c) Make a report to the Legislative Research Commission by December 1 of each even-numbered year. The report shall detail the work of the board and the results of meetings held since the previous report.

(9) The board shall distribute the list to:

(a) The appointing bodies listed in subsections (2) and (3) of this section, who shall disseminate the list to appropriate agencies, memberships, or subdivisions;

(b) Such media outlets as may ensure statewide distribution to interested members of the public; and

(c) Any educational institution, agency, organization, or business engaged in extension services, teaching, or research in the areas of agronomy, horticulture, or similar disciplines.

(10) The board may:

- ***(a) Apply for and receive grants, state or federal appropriations, or any other moneys as may become available for the board's purposes; and***
- ***(b) Expend or disburse funds in furtherance of the board's purposes.***

HJR 218, A JOINT RESOLUTION reauthorizing the Kentucky Aquaculture Task Force, and making an appropriation therefor.

WHEREAS, the Kentucky Aquaculture Task Force was created in 1998 by the General Assembly to develop a State Aquaculture Plan and to promote the development of the aquaculture industry in the Commonwealth; and

WHEREAS, the aquaculture industry has steadily grown in the state, and money has been appropriated to assist aquaculture farmers in pond construction, infrastructure development, and other aquacultural enterprises; and

WHEREAS, the task force has been proactively supporting the development of the aquaculture industry in the Commonwealth; and

WHEREAS, it is essential that the task force continue to monitor the activities surrounding the implementation of the state plan, while at the same time developing and updating the plan as the aquaculture industry grows and changes;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Aquaculture Task Force is reauthorized to develop an updated State Aquaculture Plan and to continue promoting the development of the aquaculture industry in the Commonwealth.

Section 2. The Kentucky Aquaculture Task Force is attached to the Department of Agriculture for administrative purposes, and shall consist of fifteen (15) members as follows:

(1) The Speaker of the House of Representatives or the Speaker's designee;

(2) The President of the Senate or the President's designee;

(3) The Chair of the Senate Agriculture and Natural Resources Committee or the Chair's designee;

(4) The Chair of the House Agriculture and Small Business Committee or the Chair's designee;

(5) The Commissioner of the Department of Agriculture or the Commissioner's designee;

(6) The Commissioner of the Department of Fish and Wildlife Resources or the Commissioner's designee;

(7) Four (4) members of the Kentucky Aquaculture Association representing the four (4) geographic regions of the state as defined in the original State Aquaculture Plan and appointed by the board of the association; and

(8) Five (5) members appointed by the Governor, with one (1) member representing each of the following interests:

    (a) Kentucky State University aquaculture program;
    (b) Kentucky Farm Bureau;
    (c) Agriculture liaison, Office of the Governor;
    (d) Retailers of aquacultural products; and
    (e) Wholesalers of aquacultural products.

Section 3. A majority of the members shall constitute a quorum. The members shall elect one (1) member to serve as chair.

Section 4. The task force shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members. Except as provided in KRS 18A.200, members of the task force shall receive actual traveling expenses while attending meetings of the task force. Staff services for the task force shall be provided by the Department of Agriculture.

Section 5. Because of the success of the programs that resulted from the original state plan, the task force shall develop an updated State Aquaculture Plan by September 1, 2005, and shall report on the plan and make recommendations to the Governor and to the Legislative Research Commission with respect to aquacultural policies and practices that result in the proper management, use, and marketing of the state's aquacultural industry. These policies and practices shall, at a minimum, identify and address the following:

(1) Regulatory constraints and environmental awareness;

(2) Support for and promotion of the aquaculture industry and its products;

(3) Research, extension, and education;

(4) Financial aspects of aquaculture; and

(5) Infrastructure needs.

Section 6. There is appropriated from the general fund the sum of $30,000 to accomplish the development of a new plan; $15,000 to be appropriated in fiscal year 2004-2005 and $15,000 to be appropriated in fiscal year 2005-2006. Any amount remaining following the completion of the plan shall lapse to the general fund. The study shall begin not later than August 1, 2004, and the report and recommendations shall be submitted to the Governor and to the Legislative Research Commission no later than September 1, 2005.

HCR 220, A CONCURRENT RESOLUTION authorizing and directing the creation of a Task Force on Horse Farming.

WHEREAS, Kentucky horse farming is an essential aspect of the state's agricultural economy; and

WHEREAS, Kentucky has consistently ranked among the top ten (10) states in equine production and sales; and

WHEREAS, the Kentucky horse industry has a substantial economic impact on the state as a whole; and

WHEREAS, there is a need to research and study various components of the horse farming industry such as the competitive position, organizational history, operational structure, service capacity, and fiscal condition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is directed to create a Horse Farming Task Force.

Section 2. The Task Force shall consist of sixteen (16) members as follows:

(1) Eight (8) members of the House of Representatives appointed by the Speaker of the House from various committees, to reflect:

(a) Geographical distribution throughout the state;

(b) Banking, legal, real estate and other business services; and

(c) Universities, diagnostic centers, veterinarian services and other institutes of research and development;

(2) Eight (8) members of the Senate appointed by the President of the Senate from various committees, to reflect:

(a) Geographical distribution throughout the state;

(b) Banking, legal, real estate and other business services; and

(c) Universities, diagnostic centers, veterinarian services and other institutes of research and development.

Section 3. The Speaker of the House shall appoint one House member to serve as the House co-chair of the task force. The President of the Senate shall appoint one Senate member to serve as the Senate co-chair of the task force.

Section 4. The issues to be studied may include equine incentive packages, market development activities, local and national breeding, horse farm operations, businesses that provide services to the horse industry, racing conditions, and tourism. The Task Force shall submit a final report of its findings and recommendations to the Legislative Research Commission no later than December 1, 2004. The report may be made in the form of the final 2004 interim report provided by interim and special committees and task forces to the 2005 General Assembly and the Legislative Research Commission.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 220** is as follows:

HCR 220, A CONCURRENT RESOLUTION authorizing and directing the creation of a Task Force on Horse Farming.

WHEREAS, Kentucky horse farming is an essential aspect of the state's agricultural economy; and

WHEREAS, Kentucky has consistently ranked among the top ten (10) states in equine production and sales; and

WHEREAS, the Kentucky horse industry has a substantial economic impact on the state as a whole; and

WHEREAS, there is a need to research and study various components of the horse farming industry such as the competitive position, organizational history, operational structure, service capacity, and fiscal condition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is directed to create a Horse Farming Task Force.

Section 2. The Task Force shall consist of up to twenty-six (26) members as follows:

(1) The two (2) members of the General Assembly who served as co-chairs of the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture and Natural Resources that was approved by the Legislative Research Commission for the 2003 Interim;

(2) Any of the seven (7) remaining members who were appointed to the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture and Natural Resources that was approved by the Legislative Research Commission for the 2003 Interim, who affirmatively express their desire to serve;

(3) Five (5) members of the House of Representatives appointed by the Speaker of the House from various committees to reflect:

(a) Geographical distribution throughout the state;

(b) Banking, legal, real estate and other business services; and

(c) Universities, diagnostic centers, veterinarian services and other institutes of research and development;

(3) At least five (5) but not more than twelve (12) members of the Senate, as necessary to equal the number of members of the House serving on the task force, appointed by the President of the Senate from various committees to reflect:

(a) Geographical distribution throughout the state;

(b) Banking, legal, real estate and other business services; and

(c) Universities, diagnostic centers, veterinarian services and other institutes of research and development.

Section 3. The Speaker of the House shall appoint one House member to serve as the House co-chair of the task force. The President of the Senate shall appoint one Senate member to serve as the Senate co-chair of the task force.

Section 4. The issues to be studied may include equine incentive packages, market development activities, local and national breeding, horse farm operations, businesses that provide services to the horse industry, racing conditions, and tourism. The Task Force shall submit a final report of its findings and recommendations to the Legislative Research Commission no later than December 1, 2004. The report may be made in the form of the final 2004 interim report provided by interim and special committees and task forces to the 2005 General Assembly and the Legislative Research Commission.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SCR 93, A CONCURRENT RESOLUTION requesting Kentucky's Congressional delegation to secure federal financial assistance for Kentucky's nationally prominent food safety and farm animal-tracking initiatives.

WHEREAS, the federal government and the states are responding to the increased terrorists threats to our country's food supply in part by establishing mechanisms to track food animals from birth to consumer; and

WHEREAS, the recently discovered first-ever case of bovine spongiform encephalopathy (BSE or mad cow) disease in the state of Washington underscores the necessity of enhancing the country's food-tracking system; and

WHEREAS, farm organizations, food processors and marketers, the U.S. Department of Agriculture, and state agriculture officials support a national animal identification system; and

WHEREAS, a national animal-tracking system in Kentucky will serve the dual purposes of helping to preserve a safe food supply and to promote new farm market opportunities for Kentucky farmers;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The members of Kentucky's Congressional delegation are respectfully requested to secure federal financial assistance to aid Kentucky in the development or acquisition of a premises identification database, to aid Kentucky farmers in utilizing animal-tracking technologies that promote food safety, and to aid in the other start-up costs that can be expected from implementing the national animal identification program.

Section 2. The Director of the Legislative Research Commission shall transmit this Resolution to Kentucky's Congressional members.

The House Committee Amendment No. 1 to **SCR 93** is as follows:

SCR 93, On page 1, line 1, after "delegation", by inserting "and USDA Secretary Ann Veneman"; and

On page 1, line 7, after "members", by inserting "and to USDA Secretary Ann Veneman".

The House Committee Amendment No. 2 Title to **SCR 93** is as follows:

SCR 93, Amend the title to read as follows:

"A CONCURRENT RESOLUTION requesting Kentucky's Congressional delegation and USDA Secretary Ann Veneman to secure federal financial assistance for Kentucky's nationally prominent food safety and farm animal-tracking initiatives.".

Calendar

HB 644, 645, HJR 214, HR 219, SB 80, 100, 151, HB 509, 567, 578, 579, 582, 592, 633, SB 135, 177, 181, HB 317, 393, 627, HCR 57, 106, HB 96, SB 47, 75, 79, 132, HB 318, 390, 409, and **SB 163** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 96, 317, 318, 509, 567, 633, 645, HCR 57, 106, HJR 214, HR 219, HB 351, 611, 621, 626, 677, 703,** and **HCR 102** have been posted for passage in the Regular Orders of the Day for March 12, 2004.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 700, 648, SB 100**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 615**

Representative Adkins moved that the rules be suspended to grant floor privileges to Arts Awards recipients and to act upon Legislative Citations. Agreed.

Representative Adkins moved the adoption of the following **Legislative Citation No. 74.**

The House of Representatives of the Commonwealth of Kentucky hereby honors The Recipients of the 2003 Governor's Awards in the Arts the foremost advocates of the arts in the Commonwealth of Kentucky. Upon the considered recommendations garnered by the Kentucky Arts Council and with the support of Governor Ernie Fletcher, the tireless efforts of these individuals, organizations and institutions to ensure the survival and success of the arts are this day recognized and celebrated as each is presented with the Commonwealth's highest accolades in the arts. Ardent tribute is paid to Bill and Josephine D'Amato Richardson, recipients of the Milner Award; The Judd Family, recipients of the National Award; Arturo Alonzo Sandoval, recipient of the Artist Award; Community Trust Bank, recipient of the Business Award; the Montgomery County Council for the Arts, recipient of the Community Arts Award; Vernell Bennett, recipient of the Education Award (Individual); the Kentucky Shakespeare Festival, recipient of the Education Award (Organization); Lestel Childress, recipient of the Folk Heritage Award; The City of Berea, recipient of the Government Award; and, Business First of Louisville, recipient of the Media Award. The members of this august body are proud to join Speaker Jody Richards in extending deepest gratitude to these esteemed honorees who have worked with tireless dedication on behalf of the arts in Kentucky and in offering them sincere congratulations upon receiving this well-deserved and most prestigious recognition. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

On the roll call for co-sponsors the vote was: **Yeas 95**. (See March 11, 2004, roll call to show co-sponsors on **Legislative Citation No. 74** - Appendix.)

Legislative Citation No. 74 was adopted without objection.

Representative Vincent moved the adoption of the following **Legislative Citation No. 84.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Judd Family Naomi, Wynonna and Ashley National Award Recipient 2003 Governor's Awards in the Arts given to Kentucky artists who have achieved national acclaim. Upon the considered recommendation garnered by the Kentucky Arts Council, these three native daughters of Kentucky were presented with this prestigious honor by Governor Ernie Fletcher because of the profound influence they have had on the landscape of possibility and accomplishment, with each of them soaring to the top of their chosen fields. Naomi Judd and Wynonna, both acclaimed as country music superstars and recognized for their passionate celebration of the healing power of the arts, and Ashley Judd, an accomplished actress whose films include Double Jeopardy and The Divine Secrets of the Ya Ya

Sisterhood, have never failed to pay tribute to the richness and strength each still draws upon and whose source is their heritage as Kentuckians. Having earned both national and international acclaim, they have each used their talents and influence to contribute to a multitude of endeavors and projects that benefit the citizens of this great Commonwealth. The members of this honorable body are delighted to join Representative Rocky Adkins and Representative John Vincent in extending sincere congratulations to the Judd Family, three strong Kentucky women who showed a generation of young artists and dreamers how to honor their hardships by transforming their lives and talents into luminous things of beauty, generosity and accomplishment. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 84 was adopted without objection.

Representative Vincent moved the adoption of the following **Legislative Citation No. 86**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Polly Judd as she visits in the House Chamber upon the occasion of her cherished progeny--daughter, Naomi Judd, and granddaughters, Wynonna and Ashley Judd--being named the well-deserving recipients of the National Award by Governor Ernie Fletcher during the 2003 Governor's Awards for the Arts celebration. Inasmuch as this esteemed matriarch of the Judd Family and former City Commissioner for the City of Ashland, Kentucky, has contributed richly to her community and this great Commonwealth, the members of this distinguished body are delighted to join with Representative Rocky Adkins, Representative Tanya Pullin, Representative John Vincent and Representative Robin L. Webb in welcoming her on this auspicious occasion and in extending warmest wishes as she continues to rejoice in the accomplishments of her strong and talented family. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 86 was adopted without objection.

Representative Cornett moved the adoption of the following **Legislative Citation No. 82**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bill and Josephine D'Amato Richardson Milner Award Recipients/2003 Governor's Awards in the Arts given to those individuals who have made outstanding contributions to the arts. Upon the considered recommendation garnered by the Kentucky Arts Council, Bill and Josephine Richardson were presented with this prestigious honor by Governor Ernie Fletcher for successfully demonstrating the transformative power of the arts, not only on individuals, but on communities. Originally conducting a film workshop in Whitesburg, Kentucky in 1969, Bill Richardson was hired through a federal War on Poverty program to run the Community Film Workshop Council of Appalachia, an endeavor which became Appalshop, whose productions and services now reach several million people nationally and internationally. The largest non-government, non-coal industry employer in Letcher County, its current projects include WMMT 88.7 Mountain Community Radio, Appalshop Films, Roadside Theatre, Headwaters Television, JuneAppal Records, The American Film Festival Project, and the Appalachian Media Institute. Additionally, the Richardsons have made significant contributions to the arts in numerous other ways. Josephine Richardson's passion for arts education led her to chair the Kentucky Arts Council; serve on the board of the Kentucky Humanities Council; help start the Governor's School for the Arts; help initiate the Letcher County Arts Council; and, devote time to running a bookstore and restaurant that promotes Kentucky crafts and features books on Appalachia and the works of regional writers. Bill Richardson's contributions as an architect include his design of the new Appalshop building and a number of impressive public spaces, libraries and schools, including East Ridge High School for which he received the Good Designs Mean Good Schools Award from the Kentucky Chapter of the American Institute of Architects. The members of this honorable body join Representative Howard Cornett in paying tribute to Bill and Josephine Richardson for the profound contributions they made by recognizing and facilitating what so many others had to offer that would ultimately be of benefit to all. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 82 was adopted without objection.

Representative Westrom moved the adoption of the following **Legislative Citation No. 81**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Arturo Alonzo Sandoval Artist Award Recipient 2003 Governor's Awards in the Arts given to an individual for a lifetime of achievement in the arts. Upon the considered recommendation garnered by the Kentucky Arts Council, this dynamic and visionary artist was presented with this prestigious honor by Governor Ernie Fletcher for having attained national and international acclaim for his groundbreaking work as a fiber artist. Credited with having contributed to the elevation the fiber arts from the realm of craft to that of fine art, his work has demonstrated tremendous innovation through his use of non-traditional materials and has earned him a multitude of professional honors which include the Rude Osolnik Award from the Kentucky Craft Marketing Program and the Kentucky Museum of Arts and Design; two Visual Arts Fellowships from the National Endowment for the Arts; and two Al Smith Professional Assistance Awards from the Kentucky Arts Council. His works are in the permanent collections of the Museum of Modern Art in New York and the Smithsonian's Renwick Gallery. A highly-esteemed and accessible educator, he has also generously contributed his services as an adjudicator, lecturer, curator, set designer, facilitator, board member and arts advisor throughout Kentucky and nationally. The members of this honorable body are delighted to join Representative Susan Westrom in paying tribute to Arturo Alonzo Sandoval, an artist of whom all Kentuckians can be proud, and in expressing gratitude to him for having enriched the great tapestry of visual arts in the Commonwealth. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 81 was adopted without objection.

Representative Hall moved the adoption of the following **Legislative Citation No. 75**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Community Trust Bank Business Award Recipient 2003 Governor's Awards in the Arts given to a business which has demonstrated outstanding interest in and support of the arts. Upon the considered recommendation garnered by the Kentucky Arts Council, this company was presented with this prestigious honor by Governor Ernie Fletcher for the tremendous impact that it has had on the success of the arts across Kentucky. This distinguished and culturally-aware corporation has long funded the efforts of such noteworthy arts organizations as the Paramount Arts Center, the Kentucky Mountain Concert Council, The Fine Arts Association of Southeastern Kentucky, The Berea Arts Council, the Central Kentucky Arts Series, and a multitude of other local and regional arts organizations and endeavors. In addition, it has enthusiastically supported the efforts of its employees to become involved in the arts and many have volunteered countless hours in support of the arts in their respective communities. Utilizing its resources for the good of the community and of this fine Commonwealth, Community Trust Bank has played a pivotal role in the survival and prosperity of the arts in Kentucky. The members of this honorable body are delighted to join Representative W. Keith Hall in commending this outstanding company for demonstrating their firm belief that the arts are, indeed, good business. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 75 was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 76**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Montgomery County Council for the Arts Community Arts Award Recipient 2003 Governor's Awards in the Arts given to an organization that has played a lead role in the encouragement of the arts in the community. Upon the considered recommendation garnered by the Kentucky Arts Council, this organization was presented with this prestigious honor by Governor Ernie Fletcher for its productive and successful response to a growing problem in the community. Recognizing a profound need for arts opportunities in the community of Montgomery County, the Council was formed by a group of concerned citizens and evolved over the next 12 years into what is now an invaluable non-profit, community-based organization which has labored to support and install a multitude of arts organizations and programs, including the Gateway Regional Band, the Sterling Singers, the Sterling Players, and the Gate City Fine Arts Guild. In addition, the council formed an African American Advisory Team which, with the help of a community Migrant Coalition Team, has sponsored several jazz, gospel, and theatrical performances with Hispanic and African American themes; coordinated with the local health department to create "cultural tool kits," with information about Japanese and Native American cultures for area daycares and preschools; and, sponsored an historic post card exhibit created by a California man whose mother still resides in Mount Sterling and who, over the years, had collected over 2,000 old postcards of the town. Arguably the council's most impressive accomplishment is the opening of the Gallery for the Arts, an invaluable space which has been home to over 80 exhibits of local, regional, and national artists' work and has been a phenomenal learning resource for students of the area. The members of this honorable body are delighted to join Representative Adrian K. Arnold in expressing profound gratitude to all those who have contributed to the success of the Montgomery County Council for the Arts for its most valuable efforts to broaden and enrich the lives of the youth of this community through exposure to and active participation in the arts. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 76 was adopted without objection.

Representative Graham moved the adoption of the following **Legislative Citation No. 80**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Vernell Bennett Education Award Recipient 2003 Governor's Awards in the Arts given to an individual who has made significant contributions to the arts in education. Upon the considered recommendation garnered by the Kentucky Arts Council, Ms. Bennett, an assistant professor of vocal music at Kentucky State University and a talented and accomplished vocalist, was presented with this prestigious honor by Governor Ernie Fletcher for her contributions as the founder and director of Operation Half-Note, a program designed to create musical awareness in young children in the pre-primary age group; enrich self-esteem; reinforce basic literacy skills; and, reach out to the community. Located on the KSU campus, Operation Half-Note provides instruction in musical fundamentals; annual field trips to children's theater productions; presentations by guest lecturers; and an annual presentation of the children's newly-acquired skills, replete with a graduation ceremony. By virtue of Ms. Bennett's hard work and with generous donations from KSU, the Kentucky Arts Council, and local businesses, Operation Half-Note is available to children without charge and its value is immeasurable in terms of the profound and positive effect it has had on the ever-more inclusive group of children who have participated in it. Having additionally served as Vocal Music Director for the Creative Arts for Ethnicity; as an advisor for KSU's K-Rette Dance Squad; as a member of the university's Division of Fine Arts Core Advising Team; as a guest soloist in the Capital City Chorale; as an emcee for various arts programs in the community; and, as a dedicated volunteer for many educational and artistic endeavors throughout the community. This honorable body is delighted to join Representative Derrick W. Graham in applauding the visionary accomplishments of Vernell Bennett and in extending best wishes for her continued success as she continues to enrich the lives of the youth of this Commonwealth. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 80 was adopted without objection.

Representative Meeks moved the adoption of the following **Legislative Citation No. 79.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Kentucky Shakespeare Theatre Education Award Recipient (Organization) 2003 Governor's Awards in the Arts given to an organization that has made significant contributions to the arts in education. Upon the considered recommendation garnered by the Kentucky Arts Council, the Kentucky Shakespeare Theatre was presented with this prestigious honor by Governor Ernie Fletcher for its successful efforts to provide accessible, professional, classical theater in conjunction with quality educational outreach programs. Led by artistic director, Curt Tofteland, the Festival has performed the works of Shakespeare in every county of this great Commonwealth, traveling to schools where each program is tailored to the particular grade or age level; has sponsored a wide range of programs and camps that provide opportunities for children of all ages to learn and perform the works of Shakespeare; has developed a teacher training institute to help teachers learn to make Shakespeare more accessible to their students; has established the Shakespeare Behind Bars program, the only inmate Shakespearean acting ensemble in the nation; and has continued to expend its educational opportunities while maintaining the highest level of professionalism in its performances. The members of this honorable body are delighted to join Representative Reginald K. Meeks in expressing profound gratitude to all those who have generously contributed to the success of the Kentucky Shakespeare Festival for their most valuable efforts to broaden and enrich the lives of the youth of this great Commonwealth through exposure to and active participation in the arts. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 79 was adopted without objection.

Representative Sims moved the adoption of the following **Legislative Citation No. 77.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Lestel Childress Folk Heritage Award Recipient 2003 Governor's Awards in the Arts given to an individual that has made an outstanding effort to perpetuate and promote Kentucky's unique artistic traditions. Upon the considered recommendation garnered by the Kentucky Arts Council, Mr. Childress was presented with this prestigious honor by Governor Ernie Fletcher for his ongoing efforts to preserve and perpetuate the craft of basket making, an invaluable skill which has not only been an outlet for great creativity and expression but has been a means to manufacture a tool long used by families in this region in the home and on the farm and as a means of income in the marketplace. A fifth generation white oak basketmaker, Mr. Childress' work and the work of his late wife, Ollie Stith Childress, has been featured in Kentucky Crafts; Handmade and Heartfelt by Phyllis George and Appalachian White Oak Basketmaking: Handing Down the Basket by Cynthia Taylor; has been sold in such upscale establishments as Neiman Marcus and Marshall Fields; and, has earned high honors from the Kentucky Guild of Artists and Craftsmen and the Kentucky Folklife Program. Widely regarded as one of the most skilled and important craftsmen in this region, Mr. Childress is particularly lauded for his continued recognition of the critical importance of passing this cherished skill on to future generations as a means of preserving and celebrating the rich heritage of this Commonwealth and the deep ancestral roots upon which it is based. The members of this honorable body are delighted to join Representative Dottie J. Sims in paying tribute to Lestel Childress for devoting his talents and energies to shoring up the backbone of Kentucky's arts and culture and helping Kentucky maintain its reputation as home to a wealth of diverse traditions. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 77 was adopted without objection.

Representative Moberly moved the adoption of the following **Legislative Citation No. 78.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The City of Berea, Kentucky Government Award Recipient 2003 Governor's Awards in the Arts given to an entity that significantly supports the arts through government action. Upon the considered recommendation garnered by the Kentucky Arts Council, the City of Berea was presented with this prestigious honor by Governor Ernie Fletcher for continuing its longstanding support of the arts, a tradition begun when Berea College started the Fireside Weaving program, when Churchill Weavers came to Berea and grew to attain national renown, and developed further when the city provided the Kentucky Guild of Artists and Craftsmen an equitable opportunity to headquarter their organization in a city-owned house while plans are made for a permanent facility; with the revitalization efforts that brought about the building of the Kentucky Artisan Center, the development of the Kentucky Artisan Heritage Trails, the initiation of the Frost Award, the artisan-focused brochure and video promoted through the Tourism Office; and the signage program that leads welcome visitors to the doors of artists and arts organizations. For recognizing and building on the intrinsic and intangible value of the arts, the members of this honorable body are delighted to join Representative Harry Moberly, Jr. in commending the City of Berea, its Mayor, the Honorable Steven Connelly, and all those who have worked with such dedication and vision to continue to shape a city whose support arts continues to enhance its economic and spiritual vitality. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and four.

Legislative Citation No. 78 was adopted without objection.

Representative Riner moved the adoption of the following **Legislative Citation No. 83**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Business First of Louisville Media Award Recipient 2003 Governor's Awards in the Arts given to an individual or organization that has shown an outstanding commitment to bringing the arts to the attention of the public. Upon the considered recommendation garnered by the Kentucky Arts Council and selected for this prestigious honor by Governor Ernie Fletcher, this weekly journal was chosen for its consistent commitment to spotlighting the arts in Kentucky and for its recognition of the arts as a vital economic resource in this Commonwealth. Having continually addressed the challenges faced by arts organizations as a result of a growing lack of funding due to a dwindling economy, Business First of Louisville recognizes a strong public interest in the survival and success of these endeavors. It has continually labored to spark public interest in such vital organizations as the Kentucky Shakespeare Festival, the Kentucky Museum of Art and Design, and the Louisville Orchestra, and has provided an opportunity for readers to understand first-hand the immense dedication and commitment of local and regional artists, performers, and arts administrators. The members of this honorable body are delighted to join Representative Tom Riner in paying tribute to all those who have contributed to the phenomenal success of Business First of Louisville and in extending to them best wishes for success as they continue to work on behalf of their fellow citizens and in support of the arts across this fine state. Done in Frankfort, Kentucky, this eleventh day of March, in the Year of our Lord, two thousand and four.

Legislative Citation No. 83 was adopted without objection.

Representative Collins moved that the rules be suspended to grant floor privileges and to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 239, by Representative Collins: A RESOLUTION adjourning the House of Representatives in honor of the bravery and service of Sergeant Samuel Kevin Hannah.

Representative Collins moved the adoption of the following **HR 239**:

HR 239, A RESOLUTION adjourning the House of Representatives in honor of the bravery and service of Sergeant Samuel Kevin Hannah.

WHEREAS, Kevin Hannah was born in Paintsville, Johnson County, Kentucky, on July 30, 1980; he graduated from Paintsville High School in 1998; and

WHEREAS, Kevin Hannah enlisted in the United States Army following graduation from high school; he was assigned to Alpha Company, 1st Battalion, 30th Infantry Regiment, 3rd Brigade, 3rd Infantry Division, based in Fort Benning, Georgia; and

WHEREAS, Sergeant Kevin Hannah was sent to Kuwait in March, 2003, and bravely supported Operation Iraqi Freedom fulfilling his duties as an infantryman; and

WHEREAS, on May 4, 2003, Sergeant Kevin Hannah was seriously injured when he was wounded while working at a checkpoint in Iraq; and

WHEREAS, Sergeant Kevin Hannah returned to Kentucky on July 4, 2003, following recovery in several hospitals; and

WHEREAS, Sergeant Kevin Hannah has been awarded numerous honors including the Purple Heart, the Army Commendation Medal, the Army Achievement Medal, and the combat infantryman badge; and

WHEREAS, the service of Sergeant Kevin Hannah exemplifies the motto of his infantry regiment, "Our country, not ourselves"; and

WHEREAS, the Commonwealth of Kentucky is deeply grateful to Sergeant Kevin Hannah for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud to recognize the patriotic service of Sergeant Samuel Kevin Hannah to his country and does hereby express its appreciation and recognize his heroism. We extend our best wishes for a complete recovery and success in the future.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Sergeant Samuel Kevin Hannah.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Sergeant Samuel Kevin Hannah, 1124 Maple Street, Paintsville, Kentucky 41240, and to the parents of Sergeant Samuel Kevin Hannah: Mr. and Mrs. Randall Hannah, 1124 Maple Street, Paintsville, Kentucky 41240.

There being no objection, **HR 239** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 93**. (See March 11, 2004, roll call to show co-sponsors on **HR 239** - Appendix.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 59** and **HCR 30** have been examined and found correctly enrolled. Said Bill and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (3:50 p.m.)

Orders of the Day

HB 550, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HB 550**. Agreed.

Representative Webb moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 550**. Agreed.

Representative Webb moved that **HB 550**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 11, 2004, roll call on **HB 550** - Appendix.)

HB 550, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 550**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 398, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved the adoption of Floor Amendment No. 2 to **HB 398**. Agreed.

Representative Horlander moved that **HB 398**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 2**. (See March 11, 2004, roll call on **HB 398** - Appendix.)

HB 398, as amended, was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 398**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 309, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dw. Butler moved the adoption of the Committee Substitute to **HB 309**. Agreed.

Representative Dw. Butler moved that **HB 309**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 11, 2004, roll call on **HB 309** - Appendix.)

HB 309, by way of Committee Substitute, was passed and the title agreed to.

Representative Dw. Butler moved that the vote by which **HB 309**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 59** and **HCR 30** were delivered to the Senate and signed by the President. Delivered to the Governor on March 11, 2004, at 4:10 p.m.

Orders of the Day (Continued)

HB 413, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Floor Amendment No. 8 to **HB 413**. Agreed.

Representative Riggs moved that **HB 413**, as amended, be passed.

On the roll call the vote was: **Yeas 65, Nays 26**. (See March 11, 2004, roll call on **HB 413** - Appendix.)

HB 413, as amended, was passed.

Representative Riggs moved the adoption of Floor Amendment No. 9 Title to **HB 413**. Agreed.

Representative Riggs moved that the vote by which **HB 413**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage: **SB 86, 97, 147, 203, 217, 228, 231, 244,** and **245**. (4:30 p.m.)

Motions, Petitions, and Communications

Representative Meeks moved the adoption of the following **Legislative Citation No. 85**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of Alpha Kappa Alpha Sorority, Inc. upon participating in "Alpha Kappa Alpha Day," celebrated at State Capitals across this great Nation. Founded in 1908 at Howard University as a vehicle to enrich the social and intellectual aspects of college life, the sorority's function throughout the years has become far more complex. Incorporated in 1913, Alpha Kappa Alpha became the channel through which selected college-trained women worked to improve the socioeconomic status of their cities, states, nations and the world. The members of this outstanding national public service organization now sit in on sessions of state legislatures in order to observe their legislators at work. Inasmuch as this exemplary sorority has long been committed to public service, sisterhood and scholarship, and does not support any political party line but is ever-vigilant regarding awareness of laws, programs and practices that affect the health, education and welfare of all citizens, especially African Americans, the members of this honorable body are delighted to join Representative Reginald K. Meeks in welcoming them to the Chambers of the Kentucky House of Representatives on this day. Further, expressions of gratitude are extended to these citizens for their interest and involvement in the legislative process. Done at Frankfort, Kentucky, this eleventh day of February, in the year two thousand and four.

Legislative Citation No. 85 was adopted without objection.

Representative McKee moved the adoption of the following **HR 236**:

HR 236, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Claude Lee Hixson.

With deepest respect and admiration, we pay homage and tribute to Claude Lee Hixson, and we pause in silent reverence for his soul.

WHEREAS, Claude Lee Hixson was born on April 17, 1918, a native of Fleming County, Kentucky, and he traversed these earthly bounds on February 5, 2004; and

WHEREAS, Claude Lee Hixson was the loving son of the late Emery Clifton and Mary Powell Hixson, and he was also preceded in death by two loving brothers, Douglas Hixson and Elmer Hixson, and a loving sister, Kathleen Ponder; he was the devoted husband of Katherine Wash Hixson; and he also leaves behind three loving sisters, Lillian Rice of Mason County, Ruby Hixson of Lexington, and Lucy Friedly of Scott County; and two loving brothers, William Hixson of Harrison County and Roy Hixson of Cottontown, Tennessee; and he was the loving brother-in-law of Martha Hixson, Mary Hixson, Roy Rice, and Jacob Friedly; and

WHEREAS, Claude Lee Hixson served his country with pride and distinction in the United States Army during World War II; and

WHEREAS, Claude Lee Hixson was an esteemed member of the Harrison County community, where he was a member of the Cynthiana Christian Church; he worked as a county agent in Pike, Robertson, and Harrison Counties for 45 years; and he was a member of the Cynthiana Lions Club; and

WHEREAS, the passing of Claude Lee Hixson has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Claude Lee Hixson, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Claude Lee Hixson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Katherine Wash Hixson, 271 Chelsea Drive, Cynthiana, Kentucky 41031.

There being no objection, **HR 236** was adopted.

Representative Vincent moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 240, by Representatives Adkins and Vincent: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Marie Blake Ross.

Motions, Petitions, and Communications (Continued)

Representative Vincent moved the adoption of the following **HR 240**:

HR 240, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Marie Blake Ross.

With deepest respect and admiration, we pay homage and tribute to Marie Blake Ross, and we pause in silent reverence for her soul.

WHEREAS, Marie Blake Ross was born on June 20, 1925, a native of Richmond, Madison County, Kentucky, and longtime resident of Boyd County, Kentucky, and she traversed these earthly bounds on March 2, 2004; and

WHEREAS, Marie Blake Ross was the loving daughter of the late H. T. and Ollie Mann Blake; she was the devoted wife of 60 years to Billy Joe Ross; she was the loving mother of four sons, Bill Tom Ross and Tony Ross, both of Catlettsburg, Jimmy Ross of Raceland, and Marty Ross of Worthington; and a daughter, Kathy Bennett of Catlettsburg; she was the loving mother-in-law of Brenda Ross, Carol Ross, Michelle Ross, and Charles Bennett; she was the proud grandmother of seven grandchildren, Cari Rucker, Christa Hoffman, Courtney Howard, Kyle Ross, Katy Bennett, Joe Bennett, and Kylee Ross; she was the proud great-grandmother of Bailey Marie Ross, and she was the proud great-stepgrandmother of Davis, Matt, and Danielle; and

WHEREAS, Marie Blake Ross was an esteemed member of the Boyd County community, and an active and involved citizen; she was a member of the First United Methodist Church in Catlettsburg; she was a clerk with the Federal District Court in Ashland, retiring after 30 years, and a secretary to the superintendent of the Catlettsburg School System, retiring after 20 years; and she was an active member of the Boyd County Democratic Woman's Club; and

WHEREAS, the passing of Marie Blake Ross has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives joins Representative John Vincent and Representative Rocky Adkins, and does hereby express its profound sense of sorrow upon the passing of Marie Blake Ross, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Marie Blake Ross.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Billy Joe Ross, 3150 Louisa Street, Catlettsburg, Kentucky 41129.

There being no objection, **HR 240** was adopted.

Representative Gray moved the adoption of the following **HR 213**:

HR 213, A RESOLUTION urging the Kentucky Community and Technical College System to place highest priority on the equitable distribution of pay raises for faculty and staff.

WHEREAS, The Kentucky Community and Technical College System was created by legislative action in 1997; and

WHEREAS, faculty and staff from both the former University of Kentucky Community College System and the former technical system of the Cabinet for Workforce Development were removed from their predecessor institutions and became the new Kentucky Community and Technical College System; and

WHEREAS, new faculty and staff have been hired by the Kentucky Community and Technical College System to meet rising student populations; and

WHEREAS, the Kentucky Community and Technical College System faculty and staff have put forth tremendous effort over the past several years to make the new community and technical college system successful; and

WHEREAS, harmony, cooperation, high morale, and continued commitment of faculty and staff are vital to the continued success of the Kentucky Community and Technical College System; and

WHEREAS, an issue that contributes greatly to disharmony among Kentucky Community and Technical College System faculty and staff is the wide discrepancy and arbitrary and capricious process used in cost-of-living salary adjustments and allocation of employee benefits; and

WHEREAS, this unfair system has existed in the Kentucky Community and Technical College System for several years; and

WHEREAS, the Kentucky Community and Technical College System, as an employer, should work to promote harmony and cooperation and good morale among its employees;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body commends the Kentucky Community and Technical College System faculty and staff for their dedication, hard work, and commitment to the highest quality education for their students in a rapidly changing environment.

Section 2. This honorable body does hereby call for the leadership of the Kentucky Community and Technical College System to place the highest priority on distributing pay raises in a fair and equitable manner.

Section 3. The Clerk of the House of Representatives is hereby directed to send a copy of this Resolution to Dr. Michael McCall, President of the Kentucky Community and Technical College System, 2624 Research Park Drive, P.O. Box 14092, Lexington, Kentucky 40512-4092.

There being no objection, **HR 213** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HCR 186**

State Government: **HB 541, 640, 690, HR 160, HJR 216, SB 96, 152, 219**

The previous Report of Committees has been corrected to reflect that **HB 29**, with Committee Substitute attached, has been reported by the Committee on Transportation to the Committee on Rules with a favorable expression of opinion.

Motions, Petitions, and Communications (Continued)

Representative Feeley moved to withdraw **HB 440**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Adams moved that he be recorded as voting "yea" on **HB 413**. Agreed.

Representative Pullin moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Pullin moved that she be recorded as voting "nay" on **HB 459**. Agreed.

Representative T. Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Thompson moved that he be recorded as voting "yea" on **HB 398**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 558**. Agreed.

Representative Edmonds moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Edmonds moved that he be recorded as voting "yea" on **HJR 135**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 262** and **517**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Adams moved that he be recorded as voting "yea" on **HCR 190**. Agreed.

Representative Hall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Hall moved that he be recorded as voting "yea" on **HB 650** and **514**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bather moved that he be recorded as voting "nay" on the discharge petition on **HB 31,** the discharge petition on **HB 223,** and the discharge petition on **HB 32**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 309, 413, 550,** and **378***. Agreed. (*No vote was taken on the House Floor for **HB 378**)

Representative Bather moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bather moved that he be recorded as voting "yea" on **HB 485, 454, 447, 291, 495, 461, 535, 10, 477, 63, 519, 517, 436, HJR 136, 55, HR 200, HJR 142, HCR 202, 190, SB 45, HB 510, 435, 90, 434, 342, 708, 551, 304, 261, 172, 262, 492, 539, 147, 528, 331, 149, HR 139, HCR 8, HR 180,** and **HJR 147**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 517, 262, 519, 708, 446,** and **HCR 190**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HCR 203**, by Representative Bruce:

HCR 203, On page 1, in the second line of the resolving clause after "***Kentucky***" by deleting "***, the Senate concurring therein***"; and

On page 1, line 3, after "program." by inserting "The task force shall then report its findings and any recommendations to the Speaker of the Kentucky House of Representatives and to the House of Representatives prior to the 2005 Regular Session." and deleting all the text thereafter; and on lines 4 and 5 by deleting the text thereon.

Floor Amendment No. 2 Title to **HCR 203**, by Representative Bruce:

HCR 203, Amend the title to read "A RESOLUTION requesting reauthorization of the Tobacco Task Force.".

Floor Amendment No. 1 to the Committee Substitute to **HB 351**, by Representative Pasley:

HB 351, On page 1, delete lines 17 to 24 in their entirety and insert the following in lieu thereof:

"*(1) "Drug" shall have the same meaning as used in KRS 139.472(3)(a);*

(2) "Health benefit plan" shall have the same meaning as used in KRS 304.17A-005;

(3) "Manufacture" shall have the same meaning as defined in KRS 218A.010;

(4) "Prescription" shall have the same meaning as used in KRS 139.472(3)(b); and

(5) "Qualified resident" means a Kentucky resident who has an adjusted gross family income of three hundred fifty percent (350%) of the federal poverty guidelines or less and who does not have prescription drug coverage under a health benefit plan. Medicare coverage of prescription drugs or the enrollment in a Medicare approved prescription drug discount card program shall not exclude an individual from the refundable tax credit allowed under Section 6 of this Act, unless prohibited by federal law or rule."

On page 2. delete lines 2 to 21 and insert the following in lieu thereof:

"*(1) The secretary shall negotiate drug rebates from manufacturers based on the actual or estimated drug sales to qualified residents. The secretary shall use the following drug discounts and pricing information as a basis for negotiating the best rebate obtainable:*

(a) The rebate calculated under the Medicaid Rebate Program in accordance with 42 U.S.C. sec. 1396r-8;

(b) The average wholesale price of prescription drugs; and

(c) Discounts, rebates, or price reductions for prescription drugs provided to the federal government.

(2) The secretary may submit a state plan amendment to the federal Centers for Medicare and Medicaid Services to develop a preferred drug list for the Medicaid program based upon the provision of rebates from manufacturers under subsection (1) of this section. Approval shall be obtained from the Centers for Medicare and Medicaid Services prior to implementing the preferred drug list permitted under this subsection." and

On page 2 line 27, delete "*that is of particular benefit to the public*".

Floor Amendment No. 1 to the Committee Substitute to **HB 390**, by Representative Geveden:

HB 390, On page 2, line 15, before "*upon their*", by inserting "*, to the extent provided by the Kentucky Open Records Act, KRS 61.870 to 61.884,*".

Floor Amendment No. 1 to **HB 393**, by Representative B. Smith:

HB 393, On page 2, between lines 2 and 3, by inserting:

(3) Access improvements required by this section shall be made as funds become available to the department.

Floor Amendment No. 1 to **HB 683**, by Representative Barrows:

HB 683, On page 3, line 25, after the word "*office*" by inserting the words "*, except those filed pursuant to KRS 61.520,*".

House Floor Amendment No. 1 to **SB 80**, by Representative Graham:

SB 80, On page 1, line 8, after "*(2)*" insert "*Except as provided in paragraph (e) of this subsection,*"

On page 2, after line 10, insert the following:

"*(e) A student shall not be eligible to receive an excused absence under the provisions of this subsection for an absence during a school's testing window established for assessments of the Commonwealth Accountability Testing System under KRS 158.6453 or during a testing period established for the administration of additional district-wide assessments at the school, except if a principal determines that extenuating circumstances make an excused absence to pursue an educational enhancement opportunity appropriate.*"

Floor Amendment No. 1 to **HB 115**, by Representative Nunn:

HB 115, On page 3, line 3, delete "*prevention, early detection of disease, health promotion,*";

On page 3, line 4, insert "*or post-surgical*" prior to "*follow-up*"; and

On page 3, line 4, delete "*, or management of a chronic disease*".

Floor Amendment No. 1 to **HB 592**, by Representative Crimm:

HB 592, On page 1, line 3, after "***issue***" by inserting "***, to persons who apply for new policies on and after the effective date of this Act,***"; and

On page 1, line 4, after "***condition***" by inserting "***, other than a high-cost condition as defined in KRS 304.17A-001,***".

Floor Amendment No. 1 to **HCR 102**, by Representative P. Clark:

HCR 102, On page 1, by deleting everything between the title and the resolving clause; and

On page 1, lines 1 to 6, and on page 2, lines 1 to 9, by deleting everything after the resolving clause and inserting in lieu thereof the following:

"Section 1. The General Assembly of the Commonwealth of Kentucky hereby petitions the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several States for ratification, to recognize St. Patrick's day as a national holiday.

Section 2. The text of the proposed amendment to the Constitution of the United States should read substantially as follows:

"March Seventeenth of each year, St. Patrick's Day, shall be a legal public holiday. Public displays, in schools or other public buildings, relating to this holiday, shall be permitted."

Section 3. Certified copies of this Concurrent Resolution shall be transmitted by the Secretary of State to the Administrator of General Services of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to each member of the Commonwealth's delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature of the several States.".

Floor Amendment No. 2 Title to **HCR 102**, by Representative P. Clark:

HCR 102, By amending the title to read as follows:

"A CONCURRENT RESOLUTION petitioning the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several states, to provide for St. Patrick's Day as a national holiday.".

Floor Amendment No. 1 to the Committee Substitute to **HB 598**, by Representative Palumbo:

HB 598, On page 2, line 7, after the comma "***,***", by inserting "***except for a county or city in which prohibition has been discontinued in accordance with KRS 242.1292,***".

Floor Amendment No. 2 to **HB 592**, by Representative Crimm:

HB 592, On page 1, line 3, after "***issue***" by inserting "***to persons who apply for new policies on and after the effective date of this Act,***"; and

On page 1, line 4, after "***condition***" by inserting "***, other than a high-cost condition as defined in KRS 304.17B-001,***".

Floor Amendment No. 1 to the Committee Substitute to **HB 526**, by Representative Collins:

HB 526, On page 1, after the enacting clause, delete lines 1 through 13 in their entirety and insert in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Information entered into the automated motor vehicle registration system under this chapter shall be made available to any entity as needed to expedite the titling and transfer of motor vehicles. The cabinet shall implement the provisions of KRS 186A.060 at a cost that is not more than the cabinet's actual documented cost of providing an entity access to the data in the automated motor vehicle registration system, and shall not include cabinet administrative fees or other charges.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 192, Representative Coleman

HB 351, Representative Sims

HB 627, Representative Buckingham

HB 671, Representative Westrom

HB 672, Representative Westrom

HB 688, Representative Westrom

HR 204, Representative Palumbo

HCR 210, Representatives Belcher, Marzian, A. Smith, Gooch, Jenkins, Dw. Butler, Rand, Pasley, Sims, S. Lee, Harper, Cornett, B. Smith, Upchurch, Crall, Richards, Walton, Buckingham, Coleman, McKee, Graham, Feeley, Hoover, Rader, Farmer, Edmonds, Meade, Cherry, DeWeese, Stewart, Webb, Montell, Denham, Comer, Callahan, De. Butler, J. Arnold, Barrows, Stacy, Stein, Palumbo, Miller, Napier, Simpson, J. Adams, Burch, Wayne, Baugh, Wilkey, Thomas, Crenshaw, A. Arnold, Hoffman, Geveden, Meeks, Damron, Reinhardt, Riner, T. Thompson, Bratcher, Adkins, Bruce, Hall, Nelson, Ballard, Gray, Brinkman, Turner, Couch, L. Clark, Nesler, and Haydon

HR 237, Representatives Dw. Butler, McKee, Thomas, Geveden, J. Lee, and Baugh

Announcements

The following meeting was announced:

Majority Caucus: Room 131, upon adjournment

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, March 12, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, March 12, 2004, was adopted by voice vote.

FRIDAY, MARCH 12, 2004

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastor William Reed, First Presbyterian Church, Maysville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives J. Arnold, Cornett, Hall, Hoover, Marzian, Nunn, Stein, Thomas, and Wayne.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 11, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Calendar

HB 98, 145, 646, 671, 672, 684, 685, 688, HB 695, HJR 211, SB 16, 40, HB 141, 191, 313, 511, 625, 696, HCR 60, HJR 212, HR 225, HB 593, SB 248, HB 670, 127, HJR 218, HCR 220, and **SCR 93** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HJR 207 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Thompson moved that **HJR 207** be adopted.

On the roll call the vote was: **Yeas 83, Nays 0**. (See March 12, 2004, roll call on **HJR 207** - Appendix.)

HJR 207 was adopted.

Representative J. Thompson moved that the vote by which **HJR 207** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 172 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HCR 172** be adopted.

On the roll call the vote was: **Yeas 89, Nays 0**. (See March 12, 2004, roll call on **HCR 172** - Appendix.)

HCR 172 was adopted.

Representative L. Clark moved that the vote by which **HCR 172** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 198 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **HCR 198** be adopted.

On the roll call the vote was: **Yeas 88, Nays 1.** (See March 12, 2004, roll call on **HCR 198** - Appendix.)

HCR 198 was adopted.

Representative J. Adams moved that the vote by which **HCR 198** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 614 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 614** be passed.

On the roll call the vote was: **Yeas 81, Nays 1**. (See March 12, 2004, roll call on **HB 614** - Appendix.)

HB 614 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 614** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 703, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved the adoption of Floor Amendment No. 1 to **HB 703**. Agreed.

Representative Horlander moved that **HB 703**, as amended, be passed.

On the roll call the vote was: **Yeas 80, Nays 0**. (See March 12, 2004, roll call on **HB 703** - Appendix.)

HB 703, as amended, was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 703**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 373, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved the adoption of the Committee Substitute to **HB 373**. Agreed.

Representative Simpson moved that **HB 373**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 84, Nays 5**. (See March 12, 2004, roll call on **HB 373** - Appendix.)

HB 373, by way of Committee Substitute, was passed.

Representative Simpson moved the adoption of Committee Amendment No. 1 Title to **HB 373**. Agreed.

Representative Simpson moved that the vote by which **HB 373**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 498 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 498** be passed.

On the roll call the vote was: **Yeas 74, Nays 11**. (See March 12, 2004, roll call on **HB 498** - Appendix.)

HB 498 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 498** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 203, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Floor Amendment No. 1 to **HCR 203**. Agreed.

Representative Bruce moved that **HCR 203,** as amended, be adopted.

On the roll call the vote was: **Yeas 87, Nays 1.** (See March 12, 2004, roll call on **HCR 203** - Appendix.)

HCR 203, as amended, was adopted.

Representative Bruce moved the adoption of Floor Amendment No. 2 Title to **HCR 203**. Agreed.

Representative Bruce moved that the vote by which **HCR 203**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 215 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HCR 215** be adopted.

On the roll call the vote was: **Yeas 88, Nays 0.** (See March 12, 2004, roll call on **HCR 215** - Appendix.)

HCR 215 was adopted.

Representative Riner moved that the vote by which **HCR 215** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 683, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **HB 683**. Agreed.

Representative Barrows moved that **HB 683**, as amended, be passed.

On the roll call the vote was: **Yeas 52, Nays 32**. (See March 12, 2004, roll call on **HB 683** - Appendix.)

HB 683, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 683**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 357, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harmon moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 357**.

Representative Harmon moved to withdraw the motion to adopt Floor Amendment No. 3. Agreed.

Representative Rand moved the adoption of the Committee Substitute No. 2 to **HB 357**. Agreed.

Representative Rand moved that **HB 357**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: **Yeas 69, Nays 18**. (See March 12, 2004, roll call on **HB 357** - Appendix.)

HB 357, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Rand moved that the vote by which **HB 357**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative B. Smith moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative B. Smith moved the adoption of the following **Legislative Citation No. 88**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the members and coaching staff of the Hazard High School Bulldogs Basketball Team for outstanding performance that resulted in this talented group of athletes winning the 2004 Touchstone Energy All "A" Classic Basketball Tournament championship title. Inasmuch as the members and coaching staff of this celebrated team have brought great honor and esteem to both the school and community by the effort put forth in this worthwhile endeavor, the members of this august body are delighted to join with Representative Brandon Smith in applauding the Hazard High School Bulldogs Basketball Team for the attainment of this notable accolade and in extending best wishes for continued landmarks of success. Done in Frankfort, Kentucky, this twelfth day of March, in the year two thousand and four.

Legislative Citation No. 88 was adopted without objection.

Orders of the Day (Continued)

HCR 210, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom, moved the adoption of the Committee Substitute to **HCR 210**. Agreed.

Representative Westrom moved that **HCR 210**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 87, Nays 0**. (See March 12, 2004, roll call on **HCR 210** - Appendix.)

HCR 210, by way of Committee Substitute, was adopted.

Representative Westrom moved that the vote by which **HCR 210,** by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 214, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows, moved the adoption of the Committee Substitute to **HJR 214**. Agreed.

Representative Barrows moved that **HJR 214,** by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 86, Nays 0**. (See March 12, 2004, roll call on **HJR 214** - Appendix.)

HJR 214, by way of Committee Substitute, was adopted.

Representative Barrows moved that the vote by which **HJR 214,** by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 570, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to **HB 570**. Agreed.

Representative Jenkins moved that **HB 570**, as amended, be passed.

On the roll call the vote was: **Yeas 68, Nays 3**. (See March 12, 2004, roll call on **HB 570** - Appendix.)

HB 570, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 570**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative McKee moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative McKee moved the adoption of the following **Legislative Citation No. 87**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Harrison County High School Marching Band as they visit the House Chamber during the 2004 Regular Session of the Kentucky General Assembly to be honored for their phenomenal accomplishments over the course of the past two years which include being named the Kentucky AA State Marching Band Champions in both 2002 and 2003; winning the Mid States AA Championship competition in 2002; and, being named semi-finalists in the Bands of America National competition in 2002 and finalists in 2003. Inasmuch as these many laudable achievements represent the exceptional talent and dedication to the performing arts that has been put forth by both the members and the leadership of this celebrated band, the members of this distinguished body are pleased to join with Representative Thomas M. McKee, along with Senator R. J. Palmer II, in commending the members and directors of the Harrison County High School Marching Band for the great honor and acclaim that they continue to bring to their school and community and in extending to each best wishes for many future landmarks of success and good fortune. Done in Frankfort, Kentucky, this twelfth day of March, in the year two thousand and four.

Legislative Citation No. 87 was adopted without objection.

Representative Adkins moved that the rules be suspended for the Introduction and Posting of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 241, by Representative McKee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Theodore "Bud" Curtis.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Natural Resources: **SB 197**

Economic Development: **HB 701**

Education: **SJR 80**

Local Government: **SB 95, HB 566, 713**

Tourism Development and Energy: **HB 639**

The Clerk announced that the following Bills have been withdrawn from posting for Committee consideration:

Education: **HB 28, 653, 665**

Motions, Petitions, and Communications (Continued)

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **357**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HCR 210**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "abstain" on **HB 703**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that he be recorded as voting "yea" on **HCR 203**. Agreed.

Representative Montell moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Montell moved that his vote be changed from "yea" to "nay" on **HJR 105** and **HB 357**. Agreed.

Representative Higdon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Higdon moved that his vote be changed from "yea" to "abstain" on **HR 174**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 614, 703, 373, 498, 683, HCR 172, 198, 203, 215,** and **HJR 207**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 619**, by Representative A. Arnold:

HB 619, On page 1 by deleting lines 2 through 13 and by inserting in lieu thereof:

"(1) If the limits of a city are enlarged or reduced, the city shall, within sixty (60) days of the enlargement or reduction, cause an accurate map*_and description_* of the annexed, transferred, or severed area[~~ with a metes and bounds description~~], together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located, in the office of the Secretary of State, and in the Department for Local Government. *The map and description shall be prepared by a professional land surveyor. The documents shall depict the parcel annexed, transferred, or severed as a closed geometric figure on a plat annotated with bearings and distances, or sufficient curve data to describe each line. The professional land surveyor shall clearly state on the documents the location of the existing municipal boundary, any physical feature with which the proposed municipal boundary coincides, and a statement of the recorded deeds, plats, right-of-way plans, or other resources used to develop the documents depicting the municipal boundary.*".

Floor Amendment No. 1 to **HB 696**, by Representative Stewart:

HB 696, On page 17, after line 21, add a new Section 5 to read as follows:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any person may, when initially registering or renewing any motor vehicle registration, make a voluntary contribution to the veterans' program trust fund established under KRS 40.460(2)(b). Any monetary contribution shall be accepted and there shall not be a minimum amount that may be contributed. The county clerk shall forward contributions made under this section in the same manner as funds are forwarded under KRS 186.041.

(2) The cabinet shall provide each county clerk's office with a poster to promote voluntary contributions to the veterans' program trust fund that meets the following specifications:

(a) It shall be bright and colorful and at a minimum measure thirty six (36) inches in width and thirty six (36) inches in length;

(b) It shall state the purpose of the veterans' program trust fund and the agency where the contributions are sent; and

(c) It shall list the specific ways in which money from the trust fund is used to assist veterans across the Commonwealth.

(3) The design of the poster shall be developed collectively by the cabinet and the Kentucky Department of Veterans' Affairs. The poster may be redesigned periodically if the Kentucky Department of Veterans' Affairs determines that a new design will increase contributions to the veterans' program trust fund under this section.".

House Floor Amendment No. 4 to **SB 14**, by Representative Lindsay:

SB 14, On page 2, line 12, following "(b) A" to insert the following: "*Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace*"; and

On page 2, line 12, to place brackets around and strike through "state, federal, or municipal"; and

On page 3, line 15, to delete "*law enforcement*" and to insert in lieu thereof "*peace*"; and

On page 3, line 15, following "*officer*" to insert "*specified in subsection (6)(b) of this section*"; and

On page 3, line 16, to delete "*law enforcement*" and to insert in lieu thereof "*peace*"; and

On page 3, line 16, following "*officers*" to insert "*specified in subsection (6)(b) of this section*"; and

On page 3, line 17, to delete "*law enforcement*" and to insert in lieu thereof "*peace*"; and

On page 3, line 17, following "***officers***" to insert "***specified in subsection (6)(b) of this section***"; and
On page 4, line 2, following "all" to insert "***peace officers specified in subsection (6)(b)of this section***"; and
On page 4, line 2, to place brackets around and strike though "law enforcement officers" ; and
On page, 8, line 3 to delete "***Law enforcement***" and to insert in lieu thereof "***peace***".

Floor Amendment No. 1 to the Committee Substitute to **HB 98**, by Representative Draud:

HB 98, On page 1, line 4, after "***cabinet***" by inserting "***, if each sibling requires placement at a residential treatment facility***";

On page 1, line 5, after "***child-caring***" by deleting "***or child-placing***";

On page 1, line 13, after "***cabinet***" by inserting "***, if each sibling requires placement at a residential treatment facility***";

On page 1, line 16, after "***exists***" by inserting "***as determined by the cabinet***";

On page 1, line 18, after "***provider***" by inserting "***as determined in consultation with the cabinet***" ;

Between lines 18 and 19 by inserting the following:

"***3. A sibling's treatment and service needs can be met in a less restrictive setting; and***"; and

On page 2, after line 1, by inserting the following:

"***(5) Payment shall be made separately for each child in accordance with KRS 199.641(2).***".

Floor Amendment No. 1 to the Committee Substitute to **HB 627**, by Representative Pullin:

HB 627, On page 2, line 12, after "***regulation.***" by deleting "***Notwithstanding***" and by inserting "***Except as provided in subsection (2) and subsection (4) of this section, notwithstanding***" in lieu thereof; and

On page 3, between lines 4 and 5, by inserting the following:

"***(4) The commission shall have the authority to arbitrate and to enforce interconnection agreements between telephone utilities regardless of whether the interconnection is used to provision broadband service. Nothing in this section shall be construed to limit or impair the commission's jurisdiction granted under 47 U.S.C. sec. 271. The commission shall have the authority to resolve interconnection complaints.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 627**, by Representative Pullin:

HB 627, On page 2, line 19, after "***of***" by deleting "***July 15***" and inserting "***April 1***" in lieu thereof; and
On page 2, line 20, by deleting "***2004***" and inserting "***2001***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Resolutions:

HCR 203, Representatives McKee and Denham

HCR 210, Representative Marcotte

HCR 215, Representative Palumbo

HJR 207, Representative Crall

HJR 214, Representative Barrows

Announcements

The following meeting was announced:

Government Contract Review Committee: 10 minutes upon adjournment, Room 149

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, March 15, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, March 15, 2004, was adopted by voice vote.